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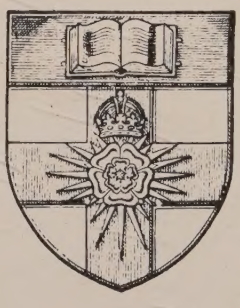

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THE

LAW REPORTS.

The Public General Statutes

PASSED IN THE FIFTEENTH AND SIXTEENTH YEARS

OF THE REIGN OF HIS MAJESTY

KING GEORGE THE FIFTH.

1925.

(IN TWO VOLUMES)

VOLUME I.

TABLE OF THE TITLES AND
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OF

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15 GEORGE 5.

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2. An Act to provide for the continuance of charging powers in respect of canal or inland navigation undertakings of which possession was retained or taken by the Minister of Transport under the Ministry of Transport Act, 1919. (*Canals* (*Continuance of Charging Powers*).)

3. An Act to authorise the Treasury to guarantee a loan to be raised by the Government of the Irish Free State for the purposes of Land Purchase in that State. (*Irish Free State Land Purchase* (*Loan Guarantee*).)

4. An Act to postpone the coming into operation of the Law of Property Act, 1922, until the first day of January, nineteen hundred and twenty-six. (*Law of Property Act* (*Postponement*).)

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6. An Act to make valid certain charges imposed and levies made during the late War. (*War Charges* (*Validity*).)

7. An Act to indemnify and relieve William Preston, Esquire, from any penal consequences which he may have incurred or suffered by sitting or voting as a member of the House of Commons during a time when he was executing, holding or enjoying a contract, agreement or commission made or entered into with the Postmaster-General, and for purposes incidental thereto. (*William Preston* (*Indemnity*).)

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13. An Act to amend the Trade Facilities Acts, 1921 to 1924, by increasing the maximum limit of the loans in respect of which guarantees may be given under those Acts and by extending the period within which such guarantees may be given. (*Trade Facilities.*)

14. An Act to consolidate the enactments relating to the Housing of the Working Classes in England and Wales. (*Housing.*)

15. An Act to consolidate the enactments relating to the Housing of the Working Classes in Scotland. (*Housing* (*Scotland*).)

16. An Act to consolidate the enactments relating to town planning in England and Wales. (*Town Planning.*)

17. An Act to consolidate the enactments relating to town planning in Scotland. (*Town Planning (Scotland).*)

18. An Act to consolidate the enactments relating to Settled Land in England and Wales. (*Settled Land.*)

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23. An Act to consolidate Enactments relating to the Administration of the Estates of Deceased Persons. (*Administration of Estates.*)

24. An Act to consolidate the Universities and College Estates Acts, 1858 to 1898, and enactments amending those Acts. (*Universities and College Estates.*)

25. An Act to provide, during Twelve Months, for the Discipline and Regulation of the Army and Air Force. (*Army and Air Force (Annual).*)

15 & 16 GEORGE 5.

26. An Act to amend the British Empire Exhibition (Guarantee) Act, 1920, and the British Empire Exhibition (Amendment) Act, 1922, by increasing to one million one hundred thousand pounds the amount up to which a guarantee may be given thereunder, and by extending the operation of the said Acts to any loss resulting from the holding of the British Empire Exhibition in the year nineteen hundred and twenty-five. (*British Empire Exhibition (Guarantee).*)

27. An Act to amend the Charitable Trusts Acts, 1853 to 1914. (*Charitable Trusts.*)

28. An Act to amend the law with respect to the jurisdiction and business of the Supreme Court in England and with respect to the judges, officers and offices thereof and otherwise with respect to the administration of justice. (*Administration of Justice.*)

29. An Act to facilitate the return to a gold standard and for purposes connected therewith. (*Gold Standard.*)

30. An Act to amend the law with respect to the landing in Great Britain of pedigree animals brought from His Majesty's dominions. (*Importation of Pedigree Animals.*)

31. An Act to provide for the further protection of birds. (*Protection of Birds.*)

32. An Act to prolong the duration of the Increase of Rent and Mortgage Interest (Restrictions) Act, 1920, as amended by any subsequent enactment, and to postpone the date of expiry of Part II. of the Rent and Mortgage Interest Restrictions Act, 1923, and for purposes consequential thereon. (*Rent and Mortgage Interest* (*Restrictions Continuation*).)

33. An Act to amend the law relating to Teinds and to the Stipends of Ministers of the Church of Scotland, and the tenure of the Property and Endowments of that Church, and for purposes connected therewith. (*Church of Scotland* (*Property and Endowments*).)

34. An Act to amend the Law relating to the Occupation and Ownership of Land in Northern Ireland; and for other purposes relating thereto. (*Northern Ireland Land.*)

35. An Act to extend further the duration of the Poor Law Emergency Provisions (Scotland) Act, 1921, and to amend certain provisions of that Act as amended by the Local Authorities (Emergency Provisions) Act, 1923, and the Poor Law Emergency Provisions Continuance (Scotland) Act, 1924. (*Poor Law Emergency Provisions Continuance* (*Scotland*).)

36. An Act to grant certain Duties of Customs and Inland Revenue (including Excise), to alter other Duties, and to amend the law relating to Customs and Inland Revenue (including Excise) and the National Debt, and to make further provision in connection with Finance. (*Finance.*)

37. An Act to provide for the exemption, in certain circumstances, of Foreign ships and British ships registered outside the United Kingdom from certain provisions of the Merchant Shipping Acts. (*Merchant Shipping* (*Equivalent Provisions*).)

38. An Act to regulate the Exhibition and Training of Performing Animals. (*Performing Animals* (*Regulation*).)

39. An Act to facilitate the preparation of Agricultural Statistics. (*Agricultural Returns.*)

40. An Act to amend the Third Schedule to the Valuation (Metropolis) Act, 1869, in relation to the making and revision of the valuation list which will come into force on the sixth day of April, nineteen hundred and twenty-six. (*Valuation* (*Metropolis*) *Amendment.*)

41. An Act to make further provision for the application of money paid on account of the China Indemnity. (*China Indemnity* (*Application*).)

42. An Act to give effect to certain Draft Conventions adopted by the International Labour Conference relating respectively to an unemployment indemnity for seamen in the case of loss or foundering of their ship, the minimum age for the admission of young persons to employment as trimmers and stokers, and the compulsory medical examination of children and young persons employed at sea. (*Merchant Shipping* (*International Labour Conventions*).)

43. An Act to repeal certain enactments imposing disabilities on former enemy aliens. (*Former Enemy Aliens* (*Disabilities Removal*).)

44. An Act to facilitate the supply of electricity by statutory gas companies. (*Statutory Gas Companies* (*Electricity Supply Powers*).)

45. An Act to amend the Law with respect to the Guardianship, Custody and Marriage of Infants. (*Guardianship of Infants.*)

46. An Act to prevent unauthorised reproductions of dramatic and musical performances. (*Dramatic and Musical Performers' Protection.*)

47. An Act to make provision respecting the retirement, pensions, allowances and gratuities of professional firemen who are members of fire brigades in Great Britain, and their widows, children and dependants. (*Fire Brigade Pensions.*)

48. An Act to amend the Improvement of Land Act, 1899. (*Improvement of Land Act* (1899) *Amendment.*)

49. An Act to consolidate the Judicature Acts, 1873 to 1910, and other enactments relating to the Supreme Court of Judicature in England and the administration of justice therein. (*Supreme Court of Judicature* (*Consolidation*).)

50. An Act to amend the Law relating to Separation and Maintenance Orders. (*Summary Jurisdiction* (*Separation and Maintenance*).)

51. An Act to provide for the Registration of Employers of Theatrical Employees and for purposes incidental thereto. (*Theatrical Employers Registration.*)

52. An Act to amend the Law with respect to the regulation of Advertisements. (*Advertisements Regulation.*)

53. An Act to amend section seven of the Mental Deficiency Act, 1913, for the purpose of enabling a defective to be removed from an institution for the purpose of being placed under guardianship. (*Mental Deficiency* (*Amendment*).)

54. An Act to remove the disqualification of ministers of religion for being borough councillors. (*Ministers of Religion* (*Removal of Disqualifications*).)

55. An Act to make further provision with regard to the grant of superannuation and other allowances to teachers in Scotland and to their legal personal representatives, and to the payment of contributions towards the cost of such allowances. (*Education* (*Scotland*) (*Superannuation*).)

56. An Act to amend the law with respect to Customs in the Isle of Man. (*Isle of Man* (*Customs*).)

57. An Act to apply a sum out of the Consolidated Fund to the service of the year ending on the thirty-first day of March, one thousand nine hundred and twenty-six, and to appropriate the Supplies granted in this Session of Parliament. (*Appropriation.*)

58. An Act to authorise buildings to be erected on a disused burial ground forming part of Greenwich Hospital. (*Greenwich Hospital* (*Disused Burial Ground*).)

59. An Act to make provision with respect to the grant of superannuation allowances and gratuities to teachers and to persons employed in the control or supervision of teachers and to their legal personal representatives and to amend the Elementary School Teachers (Superannuation) Act, 1898, and the School Teachers (Superannuation) Acts, 1918 to 1924. (*Teachers* (*Superannuation*).)

60. An Act to provide for the regulation of the manufacture, sale, and importation of vaccines, sera, and other therapeutic substances. (*Therapeutic Substances.*)

61. An Act to facilitate the acquisition and maintenance of allotments, and to make further provision for the security of tenure of tenants of allotments. (*Allotments.*)

62. An Act to grant money for the purpose of certain Local Loans out of the Local Loans Fund, and for other purposes relating to Local Loans. (*Public Works Loans.*)

63. An Act to provide for contributions out of moneys provided by Parliament towards the compensation payable by local authorities for the slaughter of cattle in accordance with orders made under the Diseases of Animals Act, 1894, in case of the existence of tuberculosis. (*Diseases of Animals.*)

64. An Act to provide for the permanent adoption of summer time. (*Summer Time.*)

65. An Act to provide for raising further money for the purpose of the Telegraph Acts, 1863 to 1924. (*Telegraph* (*Money*).)

66. An Act to amend the Seeds Act, 1920. (*Seeds* (*Amendment*).)

67. An Act to explain the meaning of the expressions "transmission" and "rent or royalty" where used in certain provisions of the Wireless Telegraphy Act, 1904. (*Wireless Telegraphy* (*Explanation*).)

68. An Act to make further provision for the improvement of roads, including the prescription of building lines, and for purposes connected therewith. (*Roads Improvement.*)

69. An Act to amend subsection (3) of section one and subsection (2) of section three of the Unemployment Insurance (No. 2) Act, 1924, to amend the law with respect to the period on the expiration of which benefit under the Acts relating to unemployment insurance becomes payable and with respect to the rates of contribution under the said Acts, and to continue the saving contained in subsection (1) of section eleven of the Unemployment Insurance Act, 1923. (*Unemployment Insurance.*)

70. An Act to make provision for pensions for widows, orphans, and persons between the ages of sixty-five and seventy, and for the payment of contributions in respect thereof; and to amend the enactments relating to health and unemployment insurance and old age pensions. (*Widows, Orphans and Old Age Contributory Pensions.*)

71. An Act to amend the Public Health Acts, 1875 to 1907, and the Baths and Washhouses Acts, 1846 to 1899, in respect of matters for which provision is commonly made in local Acts and for other purposes relating to the public health. (*Public Health.*)

72. An Act for the prevention of abuses in connection with the Grant of Honours. (*Honours* (*Prevention of Abuses*).)

73. An Act to establish a National Library in Scotland on the foundation of the Library gifted for that purpose by the Faculty of Advocates, and for purposes connected therewith. (*National Library of Scotland.*)

74. An Act to amend the Dangerous Drugs Acts, 1920 and 1923, so far as is necessary to enable effect to be given to a Convention signed at Geneva on behalf of His Majesty on the nineteenth day of February, nineteen hundred and twenty-five. (*Dangerous Drugs.*)

75. An Act to authorise local authorities under the Public Health (Scotland) Act, 1897, to make arrangements for providing medicines and treatment to persons suffering from diabetes, and for purposes connected therewith. (*Public Health (Scotland) Amendment.*)

76. An Act to deal with certain Expiring Laws by making some of them permanent, continuing some of them permanently, and continuing the remainder for a limited period. (*Expiring Laws.*)

77. An Act to confirm and give effect to a certain Agreement amending and supplementing the Articles of Agreement for a Treaty between Great Britain and Ireland to which the force of law was given by the Irish Free State (Agreement) Act, 1922, and by the Constitution of the Irish Free State (Saorstat Eireann) Act, 1922. (*Ireland (Confirmation of Agreement).*)

78. An Act to apply a sum out of the Consolidated Fund to the service of the year ending on the thirty-first day of March, one thousand nine hundred and twenty-six, and to appropriate the further Supplies granted in this Session of Parliament. (*Appropriation (No. 2).*)

79. An Act to impose customs duties on certain goods with a view to the safeguarding of certain industries, and for purposes connected therewith. (*Safeguarding of Industries (Customs Duties).*)

80. An Act to extend the period during which payments are to be made to the fund constituted under section twenty of the Mining Industry Act, 1920, and to increase the number of the committee appointed thereunder. (*Mining Industry (Welfare Fund).*)

81. An Act to consolidate and regulate the law regarding the circuits of the High Court of Justiciary and the holding of circuit courts, and to amend the law relating to criminal procedure in Scotland in certain respects. (*Circuit Courts and Criminal Procedure (Scotland).*)

82. An Act to provide for the redemption of annual sums payable in respect of transfers of highways in police burghs under the Roads and Streets in Police Burghs (Scotland) Act, 1891, and for other purposes connected therewith. (*Roads and Streets in Police Burghs (Scotland).*)

83. An Act to amend the provisions of the Government of India Act by exempting proposals for expenditure upon certain salaries, pensions and other payments from submission to Indian legislatures, and to enable rules made under the said Act relating to the Civil Services of the Crown in India to be dispensed with or relaxed in certain cases. (*Government of India (Civil Services).*)

84. An Act to consolidate the law relating to compensation to workmen for injuries suffered in the course of their employment. (*Workmen's Compensation.*)

85. An Act to amend the Land Settlement (Facilities) Act, 1919, by substituting other provisions for those contained in section twenty-seven of the said Act. (*Land Settlement (Facilities) Amendment.*)

86. An Act to amend the law with respect to the administration of criminal justice in England, and otherwise to amend the criminal law. (*Criminal Justice.*)

87. An Act to amend the law relating to Tithe rentcharge and other rentcharges, rents and payments in lieu of Tithe, and the payment of rates thereon; and for other matters connected therewith. (*Tithe.*)

88. An Act to amend the law with respect to the Coastguard, and for purposes connected therewith. (*Coastguard.*)

89. An Act to amend the Education (Scotland) Act, 1908, and the Education (Scotland) Act, 1918. (*Education (Scotland).*)

90. An Act to simplify and amend the law with respect to the making and collection of rates by the consolidation of rates and otherwise, to promote uniformity in the valuation of property for the purpose of rates, to amend the law with respect to the valuation of machinery and certain other classes of properties, and for other purposes incidental to or connected with the matters aforesaid. (*Rating and Valuation.*)

91. An Act to amend Part I. of the Mines (Working Facilities and Support) Act, 1923, with respect to the payment of money into Court. (*Mines (Working Facilities and Support).*)

THE

PUBLIC GENERAL STATUTES.

[15 GEO. 5.]

CHAPTER 1.

An Act to continue certain expiring laws.

[18th December 1924.]

WHEREAS the Acts mentioned in the Schedule to this Act are, in so far as they are in force and are temporary in their duration, limited to expire as respects the Acts mentioned in Parts I. and II. of that schedule on the thirty-first day of December, nineteen hundred and twenty-four, and the fifteenth day of February, nineteen hundred and twenty-five respectively, and as respects the Acts mentioned in Part III. of that schedule on the thirty-first day of March, nineteen hundred and twenty-five:

And whereas it is expedient to provide for the continuance as in this Act mentioned of those Acts and of the enactments amending or affecting the same:

Be it therefore enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Continuance of Acts in Schedule.

1.—(1) The Acts mentioned in Parts I. and II. of the Schedule to this Act shall, to the extent specified in column three of that schedule, be continued until the thirty-first day of December, nineteen hundred and twenty-five, and shall then expire, unless further continued.

(2) The Acts mentioned in Part III. of the Schedule to this Act shall, to the extent specified in column three of that schedule, be continued until the thirty-first day of March, nineteen hundred and twenty-six, and shall then expire, unless further continued.

(3) Any unrepealed enactments amending or affecting the enactments continued by this Act shall, in so far as they are temporary in their duration, be continued in like

manner, whether they are mentioned in the Schedule to this Act or not:

13 & 14 Geo. 5. c. 39.

Provided that nothing in this subsection shall be deemed to continue the Agricultural Rates Act, 1923.

Short title and application to Ireland.

2.—(1) This Act may be cited as the Expiring Laws Continuance Act, 1924.

(2) This Act shall apply to Northern Ireland in so far as it deals with any enactment relating to a subject with respect to which the Parliament of Northern Ireland has not power to make laws, but subject to this provision this Act shall not apply to Ireland.

Section 1.

SCHEDULE.

PART I.

1. Session and Chapter.	2. Short Title.	3. How far continued.	4. Amending Acts.
(1) 46 & 47 Vict. c. 60.	The Labourers (Ireland) Act, 1883.	The whole Act -	48 & 49 Vict. c. 77. 49 & 50 Vict. c. 59. 54 & 55 Vict. c. 48. 54 & 55 Vict. c. 71. 55 & 56 Vict. c. 7. 59 & 60 Vict. c. 53. 61 & 62 Vict. c. 37. 3 Edw. 7. c. 37. 6 Edw. 7. c. 37. 7 Edw. 7. c. 44. 9 Edw. 7. c. 42. 1 & 2 Geo. 5. c. 19. 4 & 5 Geo. 5. c. 32. 8 & 9 Geo. 5. c. 20. 9 & 10 Geo. 5. c. 55.

1. Session and Chapter.	2. Short Title.	3. How far continued.	4. Amending Acts.
(2) 58 & 59 Vict. c. 21.	The Seal Fisheries (North Pacific) Act, 1895.	The whole Act -	2 & 3 Geo. 5. c. 10.
(3) 4 Edw. 7. c. 24.	The Wireless Telegraphy Act, 1904.	The whole Act.	——
(4) 7 Edw. 7. c. 55.	The London Cab and Stage Carriage Act, 1907.	As to the abolition of the privileged cab system, section two.	——
(5) 2 & 3 Geo. 5. c. 2.	The Coal Mines (Minimum Wage) Act, 1912.	The whole Act -	10 & 11 Geo. 5. c. 50.
(6) 4 & 5 Geo. 5. c. 3.	The Grey Seals Protection Act, 1914.	The whole Act.	——
(7) 4 & 5 Geo. 5. c. 78.	The Courts (Emergency Powers) Act, 1914.	So far as it relates to orders made by any court before the thirty-first day of August, nineteen hundred and twenty-two.	6 & 7 Geo. 5. c. 13. 6 & 7 Geo. 5. c. 18. 7 & 8 Geo. 5. c. 25. 9 & 10 Geo. 5. c. 64. 10 & 11 Geo. 5. c. 5. 13 & 14 Geo. 5. c. 8.
(8) 6 & 7 Geo. 5. c. 12.	The Local Government (Emergency Provisions) Act, 1916.	Section five, except paragraph (*a*); Sections six, seven, nine, and twelve; Section thirteen, except subsections (4), (5) and (6); Sections fourteen, twenty-one and twenty-two, and subsection (1) of section twenty-four.	11 & 12 Geo. 5. c. 12.

1. Session and Chapter.	2. Short Title.	3. How far continued.	4. Amending Acts.
(9) 6 & 7 Geo. 5. c. 55.	The Local Government (Emergency Provisions) (No. 2) Act, 1916.	The whole Act -	11 & 12 Geo. 5. c. 12.
(10) 7 & 8 Geo. 5. c. 19.	The Coroners (Emergency Provisions) Act, 1917.	The whole Act -	12 & 13 Geo. 5. c. 2.
(11) 8 & 9 Geo. 5. c. 23.	The Juries Act, 1918	Section seven -	12 & 13 Geo. 5. c. 2.
(12) 8 & 9 Geo. 5. c. 34.	The Statutory Undertakings (Temporary Increase of Charges) Act, 1918.	So far as it relates to tramway undertakings.	10 & 11 Geo. 5. c. 14.
(13) 9 & 10 Geo. 5. c. 35.	The Housing, Town Planning, &c. Act, 1919.	Section twenty-five.	——
(14) 9 & 10 Geo. 5. c. 60.	The Housing, Town Planning, &c. (Scotland) Act, 1919.	Section twenty-two.	——
(15) 9 & 10 Geo. 5. c. 92.	The Aliens Restriction (Amendment) Act, 1919.	Section one.	——
(16) 9 & 10 Geo. 5. c. 97.	The Land Settlement (Scotland) Act, 1919.	Sections one and two.	12 & 13 Geo. 5. c. 52.
(17) 10 & 11 Geo. 5. c. 47.	The Ministry of Food (Continuance) Act, 1920.	So far as it authorises the making, or revoking in whole or in part, of Parts I. and III. of the Sale of Food Order, 1921, and provides for the enforcement and imposes penalties for the breach thereof.	——

1. Session and Chapter.	2. Short Title.	3. How far continued.	4. Amending Acts.
(18) 10 & 11 Geo. 5. c. 57.	The Unemployment (Relief Works) Act, 1920.	The whole Act.	——
(19) 10 & 11 Geo. 5. c. 58.	The Shops (Early Closing) Act, 1920.	The whole Act -	11 & 12 Geo. 5. c. 60.
(20) 11 & 12 Geo. 5. c. 66.	The National Health Insurance (Prolongation of Insurance) Act, 1921.	The whole Act.	——
(21) 12 & 13 Geo. 5. c. 22.	The Summer Time Act, 1922.	The whole Act.	——

PART II.

(22) 10 & 11 Geo. 5. c. 21.	The Harbours Docks and Piers (Temporary Increase of Charges) Act, 1920.	The whole Act -	12 & 13 Geo. 5. c. 23.

PART III.

(23) 59 & 60 Vict. c. 16.	The Agricultural Rates Act, 1896.	The whole Act -	2 Edw. 7. c. 42. 7 Edw. 7. c. 13.
(24) 59 & 60 Vict. c. 37.	The Agricultural Rates, Congested Districts, and Burgh Land Tax Relief (Scotland) Act, 1896.	The whole Act -	60 & 61 Vict. c. 53. 7 Edw. 7. c. 13. 1 & 2 Geo. 5. c. 49.

CHAPTER 2.

An Act to provide for the continuance of charging powers in respect of canal or inland navigation undertakings of which possession was retained or taken by the Minister of Transport under the Ministry of Transport Act, 1919.

[18th December 1924.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Extension of period during which charging powers may be continued. 9 & 10 Geo. 5. c. 50. 12 & 13 Geo. 5. c. 27.

1.—(1) In the case of canal or inland navigation undertakings of which possession was retained or taken by the Minister of Transport under the powers contained in section three of the Ministry of Transport Act, 1919, paragraph (*e*) of subsection (1) of that section as amended by subsection (1) of section one of the Canals (Continuance of Charging Powers) Act, 1922 (in this Act referred to as the principal Act), shall have effect as if the date of the expiration of this Act were substituted for the fifteenth day of February, nineteen hundred and twenty-five.

(2) Subsections (2) and (3) of section one of the principal Act shall continue in force as long as this Act continues in force, and the Rates Advisory Committee constituted under section twenty-one of the Ministry of Transport Act, 1919, shall continue in existence so long as may be necessary for the purposes of references under the said subsection (2).

Short title, construction, citation and duration.

2.—(1) This Act may be cited as the Canals (Continuance of Charging Powers) Act, 1924, and shall be construed as one with the principal Act, and the principal Act and this Act may be cited together as the Canals (Continuance of Charging Powers) Acts, 1922 and 1924.

(2) This Act shall continue in force until the fifteenth day of February, nineteen hundred and twenty-six, and shall then expire.

CHAPTER 3.

An Act to authorise the Treasury to guarantee a loan to be raised by the Government of the Irish Free State for the purposes of Land Purchase in that State. [18th December 1924.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Power to Treasury to guarantee loan.

1.—(1) The Treasury may, subject to the provisions of this Act, guarantee in such manner as they think fit, the payment of the principal of, and the interest (at a rate not exceeding four and one-half per cent. per annum) on, any loan issued by the Government of the Irish Free State for the purposes of Land Purchase in the Irish Free State, but so that the securities so guaranteed do not in the aggregate exceed thirty million pounds sterling in nominal amount and are issued within a period of eight years from the passing of this Act.

(2) A guarantee shall not be given in pursuance of this Act until the Parliament of the Irish Free State have provided to the satisfaction of the Treasury and the Secretary of State—

(*a*) for issuing and duly applying the loan for the purposes aforesaid;

(*b*) for the establishment and regulation of a sinking fund for the purpose of the redemption at par of the securities so to be guaranteed within a period of eighty years from the passing of this Act;

(*c*) for charging on the Central Fund of the Irish Free State, and on any special funds established for the purpose, with priority over any charges not existing at the date of the passing of this Act, the principal of and the interest on the securities so to be guaranteed, and any sinking fund payments for the repayment of the principal of such securities;

(*d*) for charging on the Central Fund of the Irish Free State immediately after the last mentioned

charge thereon, the repayment to the Treasury of any sum issued out of the Consolidated Fund under this Act on account of the guarantee given under this Act, with interest thereon at such rate as may be agreed on by the Treasury and the Minister for Finance of the Irish Free State and, in default of such agreement, at the rate of five per cent. per annum;

(*e*) for raising or securing the raising of sufficient money to meet the above charges.

(3) Any sums required by the Treasury for fulfilling their guarantee given under this Act shall be charged on and issued out of the Consolidated Fund or the growing produce thereof, and any sums paid on account of the repayment of the amount so issued out of the Consolidated Fund shall be paid into the Exchequer.

(4) The Treasury shall lay before both Houses of Parliament a statement of any guarantee given under this Act, and an account of any sums issued out of the Consolidated Fund for the purpose of any such guarantee as soon as may be after any such guarantee is given or any sum is so issued.

Short title.

2. This Act may be cited as the Irish Free State Land Purchase (Loan Guarantee) Act, 1924.

CHAPTER 4.

An Act to postpone the coming into operation of the Law of Property Act, 1922, until the first day of January, nineteen hundred and twenty-six. [18th December 1924.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Postponement of commencement of

1. The first day of January, nineteen hundred and twenty-six, shall be substituted for the first day of January, nineteen hundred and twenty-five, as the date

on which the Law of Property Act, 1922, is to come into operation. 12 & 13 Geo. 5. c. 16.

2. This Act may be cited as the Law of Property Act (Postponement) Act, 1924. Short title.

CHAPTER 5.

An Act to amend the Law of Property Act, 1922, and the enactments thereby affected, and to facilitate the consolidation of the law relating to conveyancing and property, settled land, trustees, the registration of pending actions, annuities, writs, orders, deeds of arrangement and land charges, the administration of estates, the registration of title to land and university and college estates. [18th December 1924.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. For the purpose of collecting the repeals effected by the Law of Property Act, 1922 (in this Act referred to as "the principal Act") parts of which are intended to be repealed, it is hereby declared that the enactments set out in the First Schedule to this Act are the enactments which were, to the extent specified in the third column of the said Schedule, repealed by the principal Act. Repeals effected by the principal Act. 12 & 13 Geo. 5. c. 16.

2. The principal Act shall be amended, in regard to details relating to the enfranchisement of copyholds and the conversion of perpetually renewable leaseholds into long terms, in the manner appearing in the Second Schedule to this Act. Amendments of the principal Act.

3. The amendments and provisions, for facilitating the consolidation of the statute law relating to conveyancing and property, contained in the Third Schedule to this Act, shall have effect. Provisions facilitating the consolidation of the law relating to conveyancing and property.

Provisions facilitating the consolidation of the law relating to settled land.

4. The amendments and provisions, for facilitating the consolidation of the statute law relating to settled land, contained in the Fourth Schedule to this Act, shall have effect.

Provisions facilitating the consolidation of the law relating to trustees.

5. The amendments and provisions, for facilitating the consolidation of the statute law relating to trustees, contained in the Fifth Schedule to this Act, shall have effect.

Provisions facilitating the consolidation of the law relating to the registration of pending actions, &c.

6. The amendments and provisions, for facilitating the consolidation of the statute law relating to the registration of pending actions, annuities, writs, orders, deeds of arrangement and land charges, contained in the Sixth Schedule to this Act, shall have effect.

Provisions facilitating the consolidation of the law relating to administration of estates.

7. The amendments and provisions, for facilitating the consolidation of the statute law relating to the administration of estates of deceased persons, contained in the Seventh Schedule to this Act, shall have effect.

Provisions facilitating the consolidation of the law relating to registration of title to land.

8. The amendments and provisions, for facilitating the consolidation of the statute law relating to the registration of title to land, contained in the Eighth Schedule to this Act, shall have effect.

Statutes affected by the principal Act.

9. The enactments mentioned in the Ninth Schedule to this Act are affected by the principal Act in the manner and to the extent specified in that Schedule.

Repeal of statutes rendered obsolete.

10. The enactments set out in the Tenth Schedule to this Act, being enactments which, as respects England and Wales, are rendered obsolete by the principal Act, are hereby repealed to the extent specified in the third column of that Schedule.

Provisions for facilitating the consolidation of the law relating to university and college estates.

11. The amendments and provisions for facilitating the consolidation of the statute law relating to university and college estates, contained in the Eleventh Schedule to this Act, shall have effect.

Short title, commencement, extent.

12.—(1) This Act may be cited as the Law of Property (Amendment) Act, 1924.

(2) This Act shall be construed as one with the principal Act, and that Act and this Act may be cited together as the Property Acts, 1922 and 1924.

(3) This Act shall come into operation on the first day of January, nineteen hundred and twenty-six.

(4) This Act extends to England and Wales only.

SCHEDULES.

FIRST SCHEDULE.

REPEALS EFFECTED BY THE LAW OF PROPERTY ACT, 1922.

Session and Chapter.	Title or Short Title.	Extent of Repeals.
27 Hen. 8. c. 10.	The Statute of Uses	The whole Act.
22 & 23 Car. 2. c. 10.	The Statute of Distribution.	Sections three and four.
29 Car. 2. c. 3.	The Statute of Frauds	Section twenty-four.
1 Jac. 2. c. 17.	An Act for reviving and continuance of severall Acts of Parlyament therein mentioned.	Sections five and seven.
11 Geo. 4. and 1 Will. 4. c. 40.	The Executors Act, 1830.	The whole Act.
3 & 4 Will. 4. c. 74.	The Fines and Recoveries Act, 1833.	Section thirty-two, as respects settlements made or coming into operation after the commencement of the principal Act.
17 & 18 Vict. c. 97.	The Inclosure Act, 1854.	The proviso to section eleven, and, in section thirteen, the words " so far as the same has " been apportioned upon the " lands of persons interested " and making applications as " aforesaid."
31 & 32 Vict. c. 40.	The Partition Act, 1868.	The whole Act without prejudice to proceedings commenced thereunder before the commencement of the principal Act.
34 & 35 Vict. c. 31.	The Trade Union Act, 1871.	In section seven, the words " not " exceeding one acre."
37 & 38 Vict. c. 78.	The Vendor and Purchaser Act, 1874.	Section one.

1ST SCH. —*cont.*

Session and Chapter.	Title or Short Title.	Extent of Repeals.
38 & 39 Vict. c. 87.	The Land Transfer Act, 1875.	Section two; in section four from "The Court of Chancery" to the end of the section; in subsection (1) of section eleven the words "for a life or lives "or determinable on a life "or lives"; sections twelve, fourteen, fifteen, and sixteen; in paragraph (2) of section eighteen, the words "succession duty," paragraphs (4) and (5), in paragraph (7) the words "in "cases where there is an occu- "pation under such tenan- "cies," and the words from "The Commissioners of Inland "Revenue" to the end of the section; in section thirty-four from the words "upon com- "pletion of the registration" to the end of the section; sections thirty-six, thirty-seven, forty-one, forty-four, forty-five, and forty-nine; in section fifty, from the words "is for a life" to the end of the section; section fifty-two; the proviso to section fifty-three; sections sixty-eight and sixty-nine; in section seventy the words "the vendor or his "solicitor in cases where the "applicant is a person who "has contracted to buy such "land, and in all other cases"; paragraphs (3), (4), (7), and (8) of section eighty-three; section eighty-four; in section eighty-five, the words from "but this enactment" to the end of the section; sections eighty-seven and eighty-eight; in sections ninety-five and ninety-six the words "subject "to any estates or rights "acquired by registration in "pursuance of this Act"; and subsection (4) of section one hundred and eleven.

1st Sch. —*cont.*

Session and Chapter.	Title or Short Title.	Extent of Repeals.
39 & 40 Vict. c. 17.	The Partition Act, 1876.	The whole Act, without prejudice to proceedings commenced thereunder before the commencement of the principal Act.
40 & 41 Vict. c. 18.	The Settled Estates Act, 1877.	The whole Act.
44 & 45 Vict. c. 41.	The Conveyancing Act, 1881.	Section twelve; in paragraph (i) of subsection (6) of section fourteen, the words "To a "covenant or condition "against assigning, under-"letting, parting with the "possession, or disposing of "the land leased; or" except in the application of that paragraph to breaches occurring before the commencement of the principal Act, and to cases where the land leased has been assigned, underlet, parted with or disposed of, to a limited company either before or after the commencement; in subsection (3) of section twenty-three the words "affected "under the mortgage deed "or under this Act;" section thirty as respects deaths occurring after the commencement of the principal Act; section forty-one; sub-sections (4) and (5) of section forty-two and section forty-three, as respects instruments coming into operation after the commencement of the principal Act; subsections (4) and (5) of section forty-five; and section sixty-two.
45 & 46 Vict. c. 38.	The Settled Land Act, 1882.	Subsection (4) of section two, and in paragraph (i) of subsection (10) of that section, the words "also an undivided share"; in subsection (6) of section two the words "as "tenants in common or" and the words "or for other con-"current estate or interests"; subsection (6) of section four;

1ST SCH. —*cont.*

Session and Chapter.	Title or Short Title.	Extent of Repeals.
45 & 46 Vict. c. 38—*cont.*	- - - - -	sections fourteen and nineteen; subsection (3) of section twenty; subsections (1) (2) and (3) of section twenty-four, and in subsection (4), the words " as " aforesaid," " in respect of " money actually raised and " remaining unpaid," " or any " undivided share therein," and " or partition "; in subsection (5), the words " or " partition " in both places where those words occur, and the words " or an undivided " share wherein "; section twenty-six; subsection (1) of section thirty-seven; in subsection (1) of section thirty-nine, the words " settlement " authorises the receipt of " capital trust money of the " settlement by one trustee "; in subsection (2) of section forty-five, the words " a con- " trary intention is expressed " in the settlement "; paragraph (ii) of subsection (1) of section fifty-eight; section sixty from " and if there are " none " to the end of the section, and section sixty-three.
47 & 48 Vict. c. 18.	The Settled Land Act, 1884.	Sections six and seven.
51 & 52 Vict. c. 51.	The Land Charges Registration and Searches Act, 1888.	In section four the words " does " not include an order made " by a court having jurisdic- " tion in bankruptcy in the " exercise of that jurisdiction, " but save as aforesaid."
52 & 53 Vict. c. 36.	The Settled Land Act, 1889.	The whole Act.
53 & 54 Vict. c. 29.	The Intestates' Estates Act, 1890.	The whole Act.
53 & 54 Vict. c. 69.	The Settled Land Act, 1890.	In section nine the words " for " building purposes " and from " and the rentcharge " to the end of the section; and sections twelve and nineteen.

1ST SCH. —*cont.*

Session and Chapter.	Title or Short Title.	Extent of Repeals.
56 & 57 Vict. c. 53.	The Trustee Act, 1893.	In paragraph (*c*) of subsection (2) of section ten, the words " at least two trustees to per- " form the trust "; in subsection (1) of section eleven, the words " where there are " more than two trustees if " one of them "; and in proviso (*e*) to subsection (1) of section thirty-five, the words " by the court."
57 & 58 Vict. c. 46.	The Copyhold Act, 1894.	The definition of " tenant " in section ninety-four.
60 & 61 Vict. c. 65.	The Land Transfer Act, 1897.	Part I., as respects deaths occurring after the commencement of the principal Act; subsections (1), (3), (4), (5), (8) and (10) of section six; subsections (1) to (4) of section seven, and the words " act, " neglect or default " in subsection (6) of that section; subsection (3) of section eight; in subsection (4) of the same section the words " subject to " any stipulation to the con- " trary, the proprietor of a " registered charge shall not " be entitled to have the cus- " tody of the land certificate, " or to require a land certificate " to be applied for "; sections twelve and thirteen; subsection (2) of section fourteen; subsections (1) and (3) of section sixteen; in subsection (1) of section twenty, from " a " person shall not " to end of that subsection; subsection (8) of section twenty; in subsection (3) of section twenty-three, the words " but no sum" to " such transfer "; in subsection (1) of section twenty-four the words " or two lives " yet to fall in or to an " undivided share in land "; and subsection (2) of that section.
1 & 2 Geo. 5. c. 37.	The Conveyancing Act, 1911.	Section twelve as respects deaths occurring after the commencement of the principal Act.

Section 2.

SECOND SCHEDULE.

AMENDMENTS OF PRINCIPAL ACT.

1. The following section shall be inserted after section one hundred and forty-two of the principal Act:—

Saving of offices of profit from the Crown.

"142A. Notwithstanding that, as respects manors belonging to the Crown, all manorial incidents may become extinguished, the acceptance of the office of steward or other principal officer shall be deemed to be an acceptance of an office of profit from the Crown for the purposes of section twenty-five of the Succession to the Crown Act, 1707."

2. The following section shall be inserted after section one hundred and forty-four of the principal Act:—

Manorial documents.

"144A.—(1) All manorial documents shall be under the charge and superintendence of the Master of the Rolls.

(2) Save as hereinafter provided, manorial documents shall remain in the possession or under the control of the lord for the time being of the manor to which the same relate and he shall not be entitled to destroy or damage wilfully such documents.

(3) The Master of the Rolls may from time to time make such enquiries as he shall think fit for the purpose of ascertaining that any manorial documents are in the proper custody, and are being properly preserved, and the lord of the manor to which such documents relate, or the governing body of any public library, or museum or historical or antiquarian society, to which the same may have been transferred, as hereinafter provided, shall furnish the Master of the Rolls with all such information with respect thereto as he may require.

(4) The Master of the Rolls may direct that any manorial documents which, in his opinion, are not being properly preserved, or which he is requested by the lord of a manor to deal with under this subsection, shall be transferred to the Public Record Office, or to any public library, or museum or historical or antiquarian society, which may be willing to receive the same, and if the same shall be transferred to any public library, or museum or historical or antiquarian society, the governing body thereof shall thereafter have the custody thereof and shall be responsible for the proper preservation and indexing thereof.

(5) Nothing contained in this section shall prejudice or affect the right of any person to the production and delivery of copies of any manorial documents or to have the same kept in a proper state of preservation; in particular the lord of the manor

2nd Sch. —*cont.*

shall remain entitled to require the same to be produced to him, or in accordance with his directions, free of any cost.

(6) In this section "manorial documents" mean court rolls, surveys, maps, terriers, documents and books of every description relating to the boundaries, franchises, wastes, customs or courts of a manor, but do not include the deeds and other instruments required for evidencing the title to a manor; "manor" includes a lordship and a reputed lordship; and "lord of the manor" includes any person entitled to manorial documents.

(7) The Master of the Rolls may make rules for giving effect to this section, and may revoke or vary any such rules."

Extinguishment of manorial incidents.

3.—(1) At the end of paragraph (viii) of subsection (1) of section one hundred and thirty-nine of the principal Act the words "On the application of the lord or of at least twenty "tenants a general order may be made under this paragraph as "respects any manor" shall be inserted.

(2) In section one hundred and forty-two of the principal Act the words "in fee" where they first occur, are hereby repealed.

Amendments of Schedules XII. and XIII.

4. The Twelfth Schedule to the principal Act is hereby amended as follows:—

(1) In sub-paragraph (*b*) of paragraph (8) the words "or a mortgagee has been admitted," and "or would have had such right if a mortgagee had not been admitted" are hereby repealed, and, in lieu of the last-mentioned words, the words "otherwise than as mortgagee" shall be inserted;

In the same sub-paragraph the words "(being a trustee)" shall be substituted for "(not being a mortgagee)"; and the words "if any" shall be inserted after "personal representative."

In the same sub-paragraph the words "a better right to be admitted than the devisee or customary heir" shall be substituted for "the best right to be admitted," where those words secondly occur.

(2) The following sub-paragraphs shall be inserted at the end of the said paragraph:—

"(*f*) If the copyholder in fee is a mortgagee the freehold estate in fee simple shall (subject to the terms of years absolute of any mortgagees) vest in the person entitled to the equity of redemption:

"(*g*) If a copyholder in fee, or other person entitled to an interest corresponding to a legal estate, is a trustee for a corporation or other person absolutely and beneficially entitled, the freehold estate in fee simple, or other corresponding legal estate (as the case may be) shall vest in the corporation or other person so entitled:

2ND SCH. —*cont.*

(*h*) If a person has, under the Limitation Acts, acquired a customary estate corresponding to a legal estate, then a legal estate corresponding to the customary estate so acquired shall vest in him."

(3) In paragraph 13 of Part II. of the Thirteenth Schedule to the principal Act:—

(*a*) The words "forfeitures and all other" shall be substituted for "all";

(*b*) The words "or where the copyhold interest liable to "forfeiture is less than a customary fee simple or is "subject to a lease binding on the lord twenty per cent. "of the annual value of such copyhold interest to be "ascertained in such manner as the Minister may "determine to be proper" shall be inserted after the words "paragraphs 3 and 4."

Amendments of Schedule XV.

5. The Fifteenth Schedule to the principal Act is hereby amended as follows:—

(1) The words "cease or" shall be inserted after "notice shall" in the proviso to sub-paragraph (1) (i) of paragraph 10;

(2) In sub-paragraph (1) of paragraph 12 the words "an amount to be ascertained as hereinafter provided" shall be substituted for "the like amount as would have been payable if this Act had not been passed and the lease or underlease or all successive leases or underleases have been renewed in due course";

(3) For sub-paragraph (2) of paragraph 12 the following sub-paragraph shall be substituted:—

"(2) In default of agreement and unless the Minister, having regard to the practice and other circumstances of the case, otherwise directs, the following provisions shall have effect for the purpose of ascertaining the annual instalments of additional rent:—

(*a*) the additional rent shall be ascertained on the basis of the fines and other payments which would have been payable on the occasion of the first renewal after the commencement of this Act, if this Act had not been passed;

(*b*) where the lessee or underlessee has a right to renew at different times, the occasion of the first renewal shall be such date as he may, by notice in writing given to the lessor within one year after the commencement of this Act, select from among the dates at which he would have been entitled to renew his lease or underlease had it remained renewable, or, in default of such notice, the last day on which he would have been entitled to renew, regard being had to the date of the last renewal";

2ND SCH. —*cont.*

(4) In sub-paragraph (3) of paragraph 12 the words "or in default" shall be substituted for "and in default";

(5) In sub-paragraph (5) of paragraph 12 for the words from "dividing the aggregate" to the end of the paragraph, the following words shall be substituted:—

"an actuary, regard being had to the interval or average interval occurring between the dates of renewal and to any circumstances affecting the amount payable on renewal";

(6) In sub-paragraph (6) of paragraph 12 the words "such "per centage as the Minister may generally or in "any particular instance with a view to maintaining "any existing practice, prescribe" shall be substituted for the words "five per cent.";

(7) At the end of sub-paragraph (1) (*a*) of paragraph 14 the words "or any part thereof" shall be inserted;

(8) In sub-paragraph (1) of paragraph 16, the words "or the "appointment of or instructions to be given to an "actuary under paragraph 12 (5) of this Schedule" shall be inserted after "other agent";

(9) At the end of sub-paragraph (3) of paragraph 16 the following words shall be inserted:—

"For the purposes of this sub-paragraph the compensation to be given for the loss of the said right shall be regulated by the practice (if any) which obtained, before the commencement of this Act, in assessing the value of the said right, unless the Minister otherwise directs."

THIRD SCHEDULE.

CONVEYANCING AND LAW OF PROPERTY.

Section 3.

PART I.

AMENDMENTS.

Powers to postpone sale.

1. The following sub-paragraph shall be inserted at the end of paragraph 2 of the Fourth Schedule to the principal Act:—

"(6) Where a disposition or settlement coming into operation after the commencement of this Act contains a trust either to retain or sell land the same shall be construed as a trust to sell the land with power to postpone the sale."

3RD SCH. —*cont.*

Trust for sale where right of redemption barred.

2. At the end of section nine of the Conveyancing Act, 1911, the words "This section has effect without prejudice to any dealings or arrangements made before the commencement of this Act" shall be added.

Party structures.

3. The following paragraph shall be inserted at the end of the Third Schedule to the principal Act:—

"5.—(1) Where under a disposition or other arrangement which, if a holding in undivided shares had been permissible, would have created a tenancy in common, a wall or other structure is or is expressed to be made a party wall or structure, that structure shall be and remain severed vertically as between the respective owners, and the owner of each part shall have such rights to support and user over the rest of the structure, as may be requisite for conferring rights corresponding to those which would have subsisted if a valid tenancy in common had been created.

"(2) Any person interested may, in case of dispute, apply to the court for an order declaring the rights and interests under this paragraph of the persons interested in any such party structure, and the court may make such order as it thinks fit."

Provisions as to contracts.

4. The following section shall be substituted for section seven of the principal Act:—

"7. (1) A stipulation that a purchaser of a legal estate in land shall accept a title made with the concurrence of any person entitled to an equitable interest shall be void, if a title can be made discharged from the equitable interest without such consent—

"(*a*) under a trust for sale, or

"(*b*) under this Act, or the Settled Land Acts, or any other statute.

"(2) A stipulation that a purchaser of a legal estate in land shall pay or contribute towards the costs of or incidental to—

"(*a*) obtaining a vesting order, or the appointment of trustees of a settlement, or the appointment of trustees of a conveyance on trust for sale, or

"(*b*) the preparation, stamping or execution of a conveyance on trust for sale, or of a vesting instrument for bringing into force the provisions of the Settled Land Acts,

shall be void.

"(3) A stipulation contained in any contract for the sale or exchange of land made after the commencement of this Act, to the effect that an outstanding legal estate

3RD SCH. —*cont.*

is to be traced or got in by or at the expense of a purchaser or that no objection is to be taken on account of an outstanding legal estate, shall be void.

"(4) If the subject matter of any contract for the sale or exchange of land—

"(i) is a mortgage term and the vendor has power to convey the fee simple in the land, or, in the case of a mortgage of a term of years absolute, the leasehold reversion affected by the mortgage, the contract shall be deemed to extend to the fee simple in the land or such leasehold reversion;

"(ii) is an equitable interest capable of subsisting as a legal estate, and the vendor has power to vest such legal estate in himself or in the purchaser or to require the same to be so vested, the contract shall be deemed to extend to such legal estate;

"(iii) is an entailed interest in possession and the vendor has power to vest in himself or in the purchaser the fee simple in the land, or to require the same to be so vested, or, if the entailed interest is an interest in a term of years absolute, such term, the contract shall be deemed to extend to the fee simple in the land or the term of years absolute.

"(5) This section does not affect the right of a mortgagee of leasehold land to sell his mortgage term only if he is unable to convey or vest the leasehold reversion expectant thereon.

"(6) Any contract to convey an undivided share in land made before or after the commencement of this Act, shall be deemed to be sufficiently complied with by the conveyance of a corresponding share in the proceeds of sale of land in like manner as if the contract had been to convey that corresponding share.

"(7) Where a purchaser has power to acquire land compulsorily, and a contract, whether by virtue of a notice to treat or otherwise, is subsisting under which title can be made without payment of the compensation money into court, title shall be made in that way unless the purchaser, to avoid expense or delay or for any special reason, considers it expedient that the money should be paid into court.

"(8) A vendor shall not have any power to rescind a contract by reason only of the enforcement of any right under this section.

"(9) This section only applies in favour of a purchaser for money or moneys worth."

3RD SCH. —*cont.*

5. The following paragraph shall be inserted at the end of section eight of the principal Act :—

Rights protected by registration.

"Where the registration cannot be cancelled or the person entitled to the equitable interest refuses to concur in the conveyance, this section shall not affect the right of any person to rescind the contract."

Exchanges.

6. The statutory provisions relating to contracts for sale of land shall, where applicable, apply to contracts for an exchange of land made after the commencement of the principal Act.

Conditions of sale.

7.—(1) The following proviso shall be inserted at the end of subsection (3) of section three of the Conveyancing Act, 1881 :—

"Provided that this subsection shall not deprive a purchaser of the right to require the production, or any abstract or copy of—

(i) any power of attorney under which any abstracted document is executed; or

(ii) any document creating or disposing of an interest, power or obligation which is not shown to have ceased or expired, and subject to which any part of the property is disposed of by an abstracted document; or

(iii) any document creating any limitation or trust by reference to which any part of the property is disposed of by an abstracted document."

(2) References in subsection (6) of the said section three to documents and evidence in the possession of a vendor shall apply where the same are in the possession of his mortgagee or trustee.

(3) The following rule shall be substituted for the fifth rule in section two of the Vendor and Purchaser Act, 1874 :—

"A vendor shall be entitled to retain documents of title where—

(*a*) he retains any part of the land to which the documents relate, or

(*b*) the document consists of a trust instrument or other instrument creating a trust which is still subsisting, or an instrument relating to the appointment or discharge of a trustee of a subsisting trust."

(4) The words "where the court refuses to grant specific performance of a contract, or in any action for the return of a deposit, the court may, if it thinks fit, order the repayment of any deposit" shall be inserted at the end of section nine of the Vendor and Purchaser Act, 1874.

3rd Sch. —*cont.*

8.—(1) The following section shall be substituted for section fifty-three of the Conveyancing Act, 1881 :—

Supplemental documents.

"53. Any instrument expressed to be supplemental to a previous instrument, shall, as far as may be, be read and have effect as if the supplemental instrument contained a full recital of the previous instrument:

Provided that nothing in this section shall operate to give any right to an abstract or production of any such previous instrument, and a purchaser may accept the same evidence that the previous instrument does not affect the title as if it had merely been mentioned in the supplemental instrument."

(2) This paragraph shall have effect in relation to instruments whether executed before or after the commencement of the principal Act.

Corporations.

9.—(1) Subsection (1) of section seventy-three of the principal Act shall take effect in favour of a purchaser.

(2) In subsection (4) of section seventy-three of the principal Act, the words "in favour of a purchaser" shall be substituted for the words "unless the contrary is proved," and in subsection (5) of the same section the words "to transactions wherever effected but" shall be inserted after "apply."

Implied covenants in conveyances subject to rents.

10.—(1) Covenant D implied under section seven of the Conveyancing Act, 1881, shall apply to freehold property subject to a rent in like manner as it applies to leasehold property.

(2) In addition to the covenants implied under the said section seven there shall in the several cases in this paragraph hereinafter mentioned, be deemed to be included and implied, a covenant to the effect in this paragraph stated, by and with such persons as are hereinafter mentioned, that is to say :—

A. In a conveyance for valuable consideration, other than a mortgage, of the entirety of the land affected by a rentcharge :—

A covenant by the grantee or joint and several covenants by the grantees, if more than one, with the conveying parties and with each of them, if more than one—

That the grantees or the persons deriving title under them will at all times, from the date of the conveyance or other date therein stated, duly pay the said rentcharge and observe and perform all the covenants agreements and conditions contained in the deed or other document creating the rentcharge and thenceforth on the part of the owner of the land to be observed and performed :

3RD SCH. —*cont.*

And also will at all times, from the date aforesaid, save harmless and keep indemnified the conveying parties and their respective estates and effects, from and against all proceedings, costs, claims and expenses on account of any omission to pay the said rentcharge or any part thereof or any breach of any of the said covenants, agreements and conditions.

Where a rentcharge has been apportioned in respect of any land, with the consent of the owner of the rentcharge, the covenants in this paragraph are implied in the conveyance of that land in like manner as if the apportioned rentcharge were the rentcharge referred to, and the document creating the rentcharge related solely to that land.

B. In a conveyance for valuable consideration, other than a mortgage, of part of land affected by a rentcharge subject to a part of that rentcharge which has been or is by that conveyance apportioned (but in either case without the consent of the owner of the rentcharge) in respect of the land conveyed :—

(i) A covenant by the grantee of the land or joint and several covenants by the grantees, if more than one, with the conveying parties and with each of them if more than one—

That the grantees or the persons deriving title under them will at all times, from the date of the conveyance or other date therein stated, pay the apportioned rent and observe and perform all the covenants (other than the covenant to pay the entire rent) and conditions contained in the deed or other document creating the rentcharge, so far as the same relate to the land conveyed :

And also will at all times, from the date aforesaid, save harmless and keep indemnified the conveying parties and their respective estates and effects from and against all proceedings, costs, claims and expenses on account of any omission to pay the said apportioned rent or any breach of any of the said covenants and conditions so far as the same relate as aforesaid.

(ii) A covenant by a person who conveys or is expressed to convey as beneficial owner or joint and several covenants by the persons who so convey or are expressed to so convey, if at the date of the conveyance any part of the land affected by such

rentcharge is retained, with the grantees of the land and with each of them (if more than one)—

That the conveying parties or the persons deriving title under them will at all times, from the date of the conveyance or other date therein stated, pay the balance of the rentcharge (after deducting the apportioned rent aforesaid, and any other rents similarly apportioned in respect of land not retained) and observe and perform all the covenants (other than the covenant to pay the entire rent) and conditions contained in the deed or other document creating the rentcharge so far as the same relate to the land not included in the conveyance and remaining vested in the covenantors:

And also will at all times, from the date aforesaid, save harmless and keep indemnified the grantees and their estates and effects from and against all proceedings, costs, claims and expenses on account of any omission to pay the aforesaid balance of the rentcharge or any breach of any of the said covenants and conditions so far as they relate as aforesaid.

C. In a conveyance for valuable consideration, other than a mortgage, of the entirety of the land comprised in a lease for the residue of the term or interest created by the lease:—

A covenant by the assignee or joint and several covenants by the assignees (if more than one) with the conveying parties, and with each of them if more than one—

That the assignees or the persons deriving title under them will at all times, from the date of the conveyance or other date therein stated, duly pay all rent becoming due under the lease creating the term or interest for which the land is conveyed and observe and perform all the covenants, agreements and conditions therein contained and thenceforth on the part of the lessees to be observed and performed:

And also will at all times, from the date aforesaid, save harmless and keep indemnified the conveying parties and their estates and effects from and against all proceedings, costs, claims and expenses on account of any omission to pay the said rent or any breach of any of the said covenants, agreements and conditions.

Where a rent has been apportioned in respect of any land, with the consent of the lessor, the covenants

3RD SCH. —*cont.*

in this paragraph are implied in the conveyance of that land in like manner as if the apportioned rent were the original rent reserved, and the lease related solely to that land.

D. In a conveyance for valuable consideration, other than a mortgage, of part of the land comprised in a lease, for the residue of the term or interest created by the lease, subject to a part of the rent which has been or is by the conveyance apportioned (but in either case without the consent of the lessor) in respect of the land conveyed :

(i) A covenant by the assignee of the land, or joint and several covenants by the assignees, if more than one, with the conveying parties and with each of them, if more than one—

That the assignees or the persons deriving title under them will at all times, from the date of the conveyance or other date therein stated, pay the apportioned rent and observe and perform all the covenants (other than the covenant to pay the entire rent) agreements and conditions contained in the lease creating the term or interest for which the land is conveyed and thenceforth on the part of the lessees to be observed and performed, so far as the same relate to the land conveyed :

And also will at all times from the date aforesaid save harmless and keep indemnified the conveying parties and their respective estates and effects from and against all proceedings, costs, claims and expenses on account of any omission to pay the said apportioned rent or any breach of any of the said covenants, agreements and conditions so far as the same relate as aforesaid.

(ii) A covenant by a person who conveys or is expressed to convey as beneficial owner, or joint and several covenants by the persons who so convey or are expressed to so convey, if at the date of the conveyance any part of the land comprised in the lease is retained, with the assignees of the land and with each of them (if more than one)—

That the conveying parties or the persons deriving title under them will at all times, from the date of the conveyance or other date therein stated, pay the balance of the rent (after deducting the apportioned rent aforesaid and any other rents similarly apportioned in respect of land not retained) and observe and perform all the covenants (other than the covenant to pay the entire rent), agreements

and conditions contained in the lease and on the part of the lessees to be observed and performed so far as the same relate to the land demised (other than the land comprised in the conveyance) and remaining vested in the covenantors:

And also will at all times, from the date aforesaid, save harmless and keep indemnified the assignees and their estates and effects from and against all proceedings, costs, claims and expenses on account of any omission to pay the aforesaid balance of the rent or any breach of any of the said covenants, agreements and conditions so far as they relate as aforesaid.

(3) Where in a conveyance for valuable consideration, other than a mortgage, part of land affected by a rentcharge, or part of land comprised in a lease is, without the consent of the owner of the rentcharge or of the lessor, as the case may be, expressed to be conveyed—

(i) Subject to or charged with the entire rent, then paragraph (B) (i) or (D) (i) of the last sub-paragraph, as the case may require, shall have effect as if the entire rent were the apportioned rent; or

(ii) Discharged or exonerated from the entire rent, then paragraph (B) (ii) or (D) (ii) of the last sub-paragraph, as the case may require, shall have effect, as if the entire rent were the balance of the rent, and the words "other than the covenant to pay the entire rent" had been omitted.

(4) In this paragraph "conveyance" does not include a demise by way of lease at a rent.

(5) Any covenant which would be implied under this paragraph by reason of a person conveying or being expressed to convey as beneficial owner may, by express reference to this paragraph, be implied, with or without variation, in a conveyance, whether or not for valuable consideration, by a person who conveys or is expressed to convey as settlor, or as trustee, or as mortgagee, or as personal representative of a deceased person, or as committee of a lunatic, or as receiver of a defective, or under an order of the court.

(6) The benefit of a covenant implied as aforesaid shall be annexed and incident to, and shall go with, the estate or interest of the implied covenantee, and shall be capable of being enforced by every person in whom that estate or interest is, for the whole or any part thereof, from time to time vested.

(7) A covenant implied as aforesaid may be varied or extended by deed, and, as so varied or extended, shall, as far as may be, operate in the like manner, and with all the like incidents, effects

3RD SCH. —*cont.*

and consequences, as if such variations or extensions were directed in this paragraph to be implied.

(8) In particular any covenant implied under this paragraph may be extended by providing that—

(*a*) the land conveyed; or

(*b*) the part of the land affected by the rentcharge which remains vested in the covenantor; or

(*c*) the part of the land demised which remains vested in the covenantor;

shall (as the case may require), stand charged with the payment of all money which may become payable under the implied covenant.

(9) This paragraph applies only to conveyances made after the commencement of the principal Act.

Benefit of covenant.

11. The following provision shall be inserted at the end of section fifty-eight of the Conveyancing Act, 1881 :—

"For the purposes of this section in connexion with covenants restrictive of the user of land 'successors in title' shall be deemed to include the owners and occupiers for the time being of the land of the covenantee intended to be benefited."

Burden of covenants relating to land.

12. The following section shall be inserted at the end of Part III. of the principal Act—

"108A.—(1) A covenant relating to any land of a covenantor or capable of being bound by him, shall, unless a contrary intention is expressed, be deemed to be made by the covenantor on behalf of himself his successors in title and the persons deriving title under him or them, and, subject as aforesaid, shall have effect as if such successors and other persons were expressed.

"This subsection extends to a covenant to do some act relating to the land, notwithstanding that the subject-matter may not be in existence when the covenant is made.

"(2) For the purposes of this section in connexion with covenants restrictive of the user of land "successors in title" shall be deemed to include the owners and occupiers for the time being of such land.

"(3) This section applies only to covenants made after the commencement of this Act."

Covenants with two or more.

13. Subsection (1) of section sixty of the Conveyancing Act, 1881, shall have effect in relation to covenants, contracts, bonds and obligations to which that subsection applies which are made or entered into after the commencement of the principal Act, as

if the words "and shall be construed as being also made with each of them" were inserted at the end of the subsection. 3rd Sch. —*cont.*

Realisation of leasehold mortgages.

14. In sub-paragraph (1) of paragraph 6 of the Second Schedule to the principal Act, the words "with the leave of the court" shall be inserted after the word "excepted."

Sales and foreclosure.

15. The following subsections shall be added at the end of section twenty-five of the Conveyancing Act, 1881:—

"(8) In this section 'mortgaged property' includes the estate or interest which a mortgagee would have had power to convey if the statutory power of sale were applicable.

"(9) For the purposes of this section the court may, in favour of a purchaser, make a vesting order conveying the mortgaged property, or appoint a person to do so, subject or not to any incumbrance, as the court may think fit; or, in the case of an equitable mortgage may create and vest a mortgage term in the mortgagee to enable him to carry out the sale as if the mortgage had been made by deed by way of legal mortgage."

Sale of minerals or surface by mortgagee.

16. Where the court authorises a mortgagee to dispose of mines and minerals and of the surface, or either of them separately, the powers so conferred shall have effect as if contained in the mortgage.

Documents and priorities.

17. (1) The following subsection shall be inserted at the end of section sixteen of the Conveyancing Act, 1881:—

"(3) A mortgagee, whose mortgage is surrendered or otherwise extinguished, shall not be liable on account of delivering documents of title in his possession to the person not having the best right thereto, unless he has notice of the right or claim of the person having the best right, whether by virtue of a right to require a surrender or re-conveyance or otherwise."

(2) The said section sixteen shall, in relation to any mortgage made after the commencement of the principal Act and affecting a legal estate in land, have effect as if the following subsection were contained therein:—

"(4) Every mortgage affecting a legal estate in land, whether legal or equitable (not being a mortgage protected by the deposit of documents relating to the legal estate affected), shall rank according to its date of registration as a land charge pursuant to the Land Charges Acts.

"This subsection does not apply to mortgages or charges of registered land or of land within the jurisdiction of a local deeds registry."

3RD SCH. —*cont.*

Leasing powers, &c.

18.—(1) In the case of mortgages made after the commencement of the principal Act, leases may be made under section eighteen of the Conveyancing Act, 1881 :—

(*a*) As to agricultural or occupation leases for any term not exceeding fifty years ;

(*b*) As to building leases for any term not exceeding nine hundred and ninety-nine years.

(2) A mortgagor or mortgagee may by agreement in writing, whether or not contained in the mortgage deed, reserve or confer on the mortgagor or mortgagee or both any further or other powers relating to leasing or the surrender of leases; and any further or other powers shall take effect in like manner as the statutory powers and with all the like incidents effects and consequences :

Provided that the powers so reserved or conferred shall not prejudicially affect the rights of any mortgagee interested under any other mortgage subsisting at the date of the agreement, unless that mortgagee joins in or adopts the agreement.

(3) A mortgagee may delegate his powers to lease or to accept surrenders of leases to a receiver appointed by him under the statutory power, and, when directed by a mortgagee to insure, the receiver may insure to the extent to which the mortgagee (if at all) might have insured.

Receivers.

19. Where under the statutory power a receiver is appointed of the income of the mortgaged property, " income " extends to the mortgaged property if that property consists of an interest in income or of a rentcharge or an annual or other periodical sum.

Sale by mortgagee.

20. A conveyance on sale by a mortgagee made after the commencement of the principal Act, shall be deemed to have been made in exercise of the statutory power unless a contrary intention appears.

Application of money by receiver.

21. In subsection (8) of section twenty-four of the Conveyancing Act, 1881, the words " In or towards discharge of the principal money if so directed in writing by the mortgagee " shall be inserted after " due under the mortgage."

Reconveyances.

22.—(1) At the end of subsection (1) of section eighty-four of the principal Act, the following words shall be inserted :—

" but without prejudice to any term or other interest which is paramount to the estate or interest of the mortgagee or other person in whom the mortgaged property was vested."

(2) At the end of subsection (6) of the same section the following words shall be inserted :—

" subject to any interest which is paramount to the mortgage."

23.—(1) At the end of subsection (4) of section eighty of the principal Act the following words shall be inserted:— 3rd Sch. —*cont.* Powers of attorney.

"Where the donee of the power of attorney is a corporation aggregate, the officer appointed to act for the corporation in the execution of the power may make a statutory declaration in like manner as if that officer had been the donee of the power."

(2) At the end of section seventy-nine of the principal Act the following words shall be inserted:—

"and no right to rescind a contract shall arise by reason of the enforcement of the provisions of this section."

(3) At the end of subsection (3) of section eighty of the principal Act the following words shall be inserted:—

"unless the power is protected by a caution or other entry on the register."

24.—(1) At the end of subsection (1) of section seventeen of the principal Act the following paragraph shall be inserted:— Entailed interests.

"Personal estate so entailed (not being chattels settled as heirlooms) may be invested, applied, and otherwise dealt with as if the same were capital money or securities representing capital money arising under the Settled Land Acts from land settled on the like trusts."

(2) In subsection (4) of the same section the words "or as tenant by the curtesy" shall be inserted after "other person."

(3) At the end of subsection (4) of the said section seventeen the following subsection shall be inserted:—

"(5) Where personal chattels are settled without reference to settled land on trusts creating entailed interests therein, the trustees, with the consent of the usufructuary for the time being if of full age, may sell the chattels or any of them, and the net proceeds of any such sale shall be held in trust for and shall go to the same persons successively, in the same manner and for the same interests, as the chattels sold would have been held and gone if they had not been sold, and the income of investments representing such proceeds of sale shall be applied accordingly."

25. Section ten of the Conveyancing Act, 1882, shall apply to persons entitled to property for an estate in fee simple or absolutely or for any less interest, not being an entailed interest, with an executory limitation over as therein mentioned. Restriction on executory limitations.

3RD SCH. —*cont.*

Dealings with life interests, reversions and other equitable interests.

26. The following section shall be inserted at the end of Part III. of the principal Act :—

" 108B.—(1) The law applicable to dealings with equitable things in action which regulates the priority of competing interests therein, shall, as respects dealings with equitable interests in land, capital money, and securities representing capital money effected after the commencement of this Act, apply to and regulate the priority of competing interests therein.

" This subsection applies whether or not the money or securities are in court.

" (2)—(i) In the case of a dealing with an equitable interest in settled land, capital money or securities representing capital money, the persons to be served with notice of the dealing shall be the trustees of the settlement; and where the equitable interest is created by a derivative or subsidiary settlement, the persons to be served with notice shall be the trustees of that settlement.

" (ii) In the case of a dealing with an equitable interest in the proceeds of sale of land or in the rents and profits until sale, the persons to be served with notice shall, as heretofore, be the trustees for sale.

" (iii) In any other case the person to be served with notice of a dealing with an equitable interest in land shall be the estate owner of the land affected.

" The persons on whom notice is served pursuant to this subsection shall be affected thereby in the same manner as if they had been trustees of personal property out of which the equitable interest was created or arose.

" This subsection does not apply where the money or securities are in court.

" (3) A notice, otherwise than in writing, given to, or received by, a trustee after the commencement of this Act as respects any dealing with an equitable interest in real or personal property, shall not affect the priority of competing claims of purchasers in that equitable interest.

" (4) Where, as respects any dealing with an equitable interest in real or personal property—

" (*a*) the trustees are not persons to whom a valid notice of the dealing can be given; or

" (*b*) there are no trustees to whom a notice can be given; or

3rd Sch. —*cont.*

" (*c*) for any other reason a valid notice cannot be served, or cannot be served without unreasonable cost or delay

a purchaser may at his own cost require that—

" (i) a memorandum of the dealing be endorsed, written on or permanently annexed to the instrument creating the trust;

" (ii) the instrument be produced to him by the person having the possession or custody thereof to prove that a sufficient memorandum has been placed thereon or annexed thereto.

Such memorandum shall, as respects priorities, operate in like manner as if notice in writing of the dealing had been given to trustees duly qualified to receive the notice at the time when the memorandum is placed on or annexed to the instrument creating the trust.

" (5) Where the property affected is settled land the memorandum shall be placed on or annexed to the trust instrument and not on the vesting instrument.

" Where the property affected is land held on trust for sale the memorandum shall be placed on or annexed to the instrument whereby the equitable interest is created.

" (6) Where the trust is created by statute or by operation of law, or in any other case where there is no instrument whereby the trusts are declared, the instrument under which the equitable interest is acquired or which is evidence of the devolution thereof shall, for the purposes of this section, be deemed the instrument creating the trust.

" In particular, where the trust arises by reason of an intestacy, the letters of administration or probate in force when the dealing was effected shall be deemed such instrument.

" (7) Nothing in this section affects any priority acquired before the commencement of this Act.

" (8) Where a notice in writing of a dealing with an equitable interest in real or personal property has been served on a trustee under this section, the trustees from time to time of the property affected shall be entitled to the custody of the notice, and the notice shall be delivered to them by any person who for the time being may have the custody thereof; and, subject to the payment of costs, any person interested in the equitable interest may require production of the notice.

3RD SCH. —*cont.*

" (9) The liability of the estate owner of the legal estate affected to produce documents and furnish information to persons entitled to equitable interests therein, shall correspond to the liability of a trustee for sale to produce documents and furnish information to persons entitled to equitable interests in the proceeds of sale of the land.

" (10) This section does not apply until a trust has been created, and in this section ' dealing ' includes a disposition by operation of law."

27. The following section shall be inserted at the end of Part III. of the principal Act :—

Power to nominate a trust corporation to receive notices.

" 108*c*.—(1) By any settlement or other instrument creating a trust, a trust corporation may be nominated to whom notices of dealings affecting real or personal property may be given, whether or not under the foregoing section, and in default of such nomination the trustees (if any) of the instrument, or the court on the application of any person interested, may make the nomination.

" (2) The person having the possession or custody of any instrument on which notices under that section may be endorsed shall cause the name of the trust corporation to whom notices may be given to be endorsed upon that instrument.

" (3) Notice given to any trust corporation whose name is so endorsed shall operate in the same way as a notice or endorsement under the foregoing section.

" (4) Where a trust corporation is acting for the purposes of this section a notice given to a trustee of the trust instrument of a dealing relating to the trust property shall forthwith be delivered or sent by post by the trustee to the trust corporation, and until received by the corporation shall not affect any priority.

" (5) A trust corporation shall not be nominated for the purposes of this section—

" (*a*) unless the corporation consents to act; or

" (*b*) where the corporation has any beneficial interest in or charge upon the trust property; or

" (*c*) where a trust corporation is acting as the trustee or one of the trustees of the instrument creating the trust.

" (6) Where a trust corporation acting for the purposes of this section becomes entitled to any beneficial interest in or charge upon the trust property, another trust corporation

shall be nominated in its place and all documents relating to notices affecting the trust shall be delivered to the corporation so nominated. 3RD SCH. —*cont.*

" (7) A trust corporation acting for the purposes of this section shall be bound to keep a separate register of notices of dealings in respect of each equitable interest and shall enter therein—

" (*a*) the date of the notice,

" (*b*) the name of the person giving the notice,

" (*c*) short particulars of the equitable interest intended to be affected, and

" (*d*) short particulars of the effect of the dealing if mentioned in the notice.

" (8) The trust corporation may, before making any entry in the register, require the applicant to pay a fee not exceeding the prescribed fee.

" (9) Subject to the payment of a fee not exceeding the prescribed fee the trust corporation shall permit any person who would, if the corporation had been the trustee of the trust instrument, have been entitled to inspect notices served on the trustee, to inspect and take copies of the register and any notices held by the corporation.

" (10) Subject to the payment by the applicant of a fee not exceeding the prescribed fee, the trust corporation shall reply to all inquiries respecting notices received by the corporation in like manner and in the same circumstances as if the corporation had been the trustee of the trust instrument.

" (11) In this section " prescribed fee " means in cases where the Public Trustee acts as a trust corporation for the purposes of this section, the fee prescribed by the Treasury, with the sanction of the Lord Chancellor.

Apportionment of conditions.

28.—(1) Section twelve of the Conveyancing Act, 1881, shall apply in any case where the severance of the reversion is effected after the commencement of the principal Act, whether the lease or tenancy was made before or after the thirty-first day of December, eighteen hundred and eighty-one.

(2) In that section " right of re-entry " includes a right to determine the lease by notice to quit or otherwise, but where the notice is served by a person entitled to a severed part of the reversion so that it extends to part only of the land demised, the lessee may, within one month determine the lease in regard to the rest of the land by giving to the owner of the reversionary estate

3RD SCH. —*cont.*

therein a counter notice expiring at the same time as the original notice.

Lessors and lessees covenants.

29. Sections ten and eleven of the Conveyancing Act, 1881, shall apply if the reversion is severed after the commencement of the principal Act, whether the lease or tenancy was made before or after the thirty-first day of December, eighteen hundred and eighty-one.

Relief against forfeiture.

30. The words "and the foregoing repeal shall not apply where the land leased has been assigned, underlet, parted with, or disposed of to a limited company" in subsection (1) of section seventy-eight of the principal Act are hereby repealed.

Relief against notice to effect decorative repairs.

31. In addition to the powers conferred by section fourteen of the Conveyancing Act, 1881, the following provision shall have effect as if inserted immediately after that section :—

"14A.—(1) After a notice is served on a lessee relating to the internal decorative repairs to a house or other building he may apply to the court for relief, and if, having regard to all the circumstances of the case (including in particular the length of the lessee's term or interest remaining unexpired) the court is satisfied that the notice is unreasonable, it may, by order, wholly or partially relieve the lessee from liability for such repairs.

(2) This section does not apply—

(i) where the liability arises under an express covenant or agreement to put the property in a decorative state of repair and the covenant or agreement has never been performed;

(ii) to any matter necessary or proper—

(*a*) for putting or keeping the property in a sanitary condition; or

(*b*) for the maintenance or preservation of the structure;

[Housing, &c., Act, 1909, s. 15 (1)].

(iii) to any statutory liability to keep a house in all respects reasonably fit for human habitation;

(iv) to any covenant or stipulation to yield up the house or other building in a specified state of repair at the end of the term.

(3) In this section "lease" includes an underlease and an agreement for a lease, and "lessee" has a corresponding meaning and includes any person liable to effect the repairs.

(4) This section applies whether the notice is served before or after the commencement of this Act, and has effect notwithstanding any stipulation to the contrary."

3RD SCH. —*cont.*

Reversionary leases.

32. At the end of section one hundred and forty-six of the principal Act there shall be inserted the words "or, as respects terms or interests created before the commencement of this Act, operate to vary any statutory or other obligations imposed in respect of such terms or interests."

Equitable apportionment of rents and remedies for non-payment or breach of covenant.

33. The following provisions shall have effect as if the same were inserted after section seventy-seven of the principal Act :—

"77A—(1) Where in a conveyance for valuable consideration, other than a mortgage, of part of land which is affected by a rentchage, such rentcharge or a part thereof is without the consent of the owner thereof, expressed to be—

(*a*) charged exclusively on the land conveyed or any part thereof in exoneration of the land retained; or

(*b*) charged exclusively on the land retained or any part thereof in exoneration of the land conveyed; or

(*c*) apportioned between the land conveyed or any part thereof and the land retained by the grantor or any part thereof;

then, without prejudice to the rights of the owner of the rentcharge, such charge or apportionment shall be binding as between the grantor and the grantee under the conveyance and their respective successors in title.

(2) Where—

(*a*) any default is made in payment of the whole or part of a rentcharge by the person who, by reason of such charge or apportionment as aforesaid, is liable to pay the same; or

(*b*) any breach occurs of any of the covenants (other than in the case of an apportionment, the covenant to pay the entire rentcharge) or conditions contained in the deed or other document creating the rentcharge, so far as the same relate to the land retained or conveyed, as the case may be;

the owner for the time being of any other land affected by the entire rentcharge who—

(i) pays or is required to pay the whole or part of the rentcharge which ought to have been paid by the defaulter aforesaid; or

(ii) incurs any costs damages or expenses by reason of the breach of covenant or condition aforesaid;

may enter into and distrain on the land in respect of which the default or breach is made or occurs, or any part of that

3RD SCH. —*cont.*

land, and dispose according to law of any distress found, and may also take possession of the income of the same land until, by means of such distress and receipt of income or otherwise the whole or part of the rentcharge (charged or apportioned as aforesaid) so unpaid and all costs, damages, and expenses incurred by reason of the nonpayment thereof, or of the breach of the said covenants and conditions, are fully paid or satisfied.

(3) Where in a conveyance for valuable consideration, other than a mortgage, of part of land comprised in a lease, for the residue of the term or interest created by the lease, the rent reserved by such lease or a part thereof is, without the consent of the lessor, expressed to be—

(*a*) charged exclusively on the land conveyed, or any part thereof in exoneration of the land retained by the assignor; or

(*b*) charged exclusively on the land retained by the assignor, or any part thereof, in exoneration of the land conveyed; or

(*c*) apportioned between the land conveyed, or any part thereof, and the land retained by the assignor or any part thereof;

then, without prejudice to the rights of the lessor, such charge or apportionment shall be binding as between the assignor and the assignee under the conveyance and their respective successors in title.

(4) Where—

(*a*) any default is made in payment of the whole or part of a rent by the person who, by reason of such charge or apportionment as aforesaid, is liable to pay the same; or

(*b*) any breach occurs of any of the lessee's covenants (other than in the case of an apportionment the covenant to pay the entire rent) or conditions contained in the lease, so far as the same relate to the land retained or conveyed, as the case may be;

the lessee for the time being of any other land comprised in the lease, in whom as respects that land, the residue of the term or interest created by the lease is vested, who—

(i) pays or is required to pay the whole or part of the rent which ought to have been paid by the defaulter aforesaid; or

(ii) incurs any costs, damages or expenses by reason of the breach of covenant or condition aforesaid;

3rd Sch. —*cont.*

may enter into and distrain on the land comprised in the lease in respect of which the default or breach is made or occurs or any part of that land, and dispose according to law of any distress found, and may also take possession of the income of the same land until (so long as the term or interest created by the lease is subsisting) by means of such distress and receipt of income or otherwise, the whole or part of the rent (charged or apportioned as aforesaid) so unpaid, and all costs, damages and expenses incurred by reason of the nonpayment thereof or of the breach of the said covenants and conditions, are fully paid or satisfied.

(5) The remedies conferred by this section take effect so far only as they might have been conferred by the conveyance whereby the rent or any part thereof is expressed to be charged or apportioned as aforesaid, but a trustee, personal representative, mortgagee or other person in a fiduciary position has and shall be deemed always to have had power to confer the same or like remedies.

(6) This section applies only if and so far as a contrary intention is not expressed in the conveyance whereby the rent or any part thereof is expressed to be charged or apportioned as aforesaid, and shall take effect subject to the terms of that conveyance and to the provisions therein contained.

(7) The remedies conferred by this section apply only where the conveyance whereby the rent or any part thereof is expressed to be charged or apportioned is made after the commencement of this Act, and do not apply where the rent is charged exclusively as aforesaid or legally apportioned with the consent of the owner or lessor.

(8) The rule of law relating to perpetuities does not affect the powers or remedies conferred by this section or any like powers or remedies expressly conferred, before or after the commencement of this Act, by an instrument."

Indemnities against rents.

34. The words "or against the breach of any covenant or condition in relation to land" shall be inserted in paragraph (*a*) of subsection (2) of section seventy-eight of the principal Act, after the words "in respect of any land," and also in paragraph (*b*) of the same subsection after the words "in respect of land."

Redemption of quit rents, &c.

35.—(1) The following paragraph shall be inserted at the end of subsection (1) of section forty-five of the Conveyancing Act, 1881 :—

"Where the rent is not perpetual the Minister may authorise the purchase of a Government annuity of an

3RD SCH. —*cont.*

amount equal to the rent, payable during the residue of the period for which the rent would have been payable, in such names as he may think fit, and give directions as to the payment of the annuity, and the amount required to purchase that annuity shall be the redemption money."

(2) Subsection (1) of section ninety-two of the principal Act shall have effect as if the words "or the Government annuity" were inserted after "by the Minister" and references in that section to the fund in court shall include the annuity.

Commons and waste land.

36. Section one hundred and two of the principal Act shall not apply to any common or manorial waste which is for the time being held for Naval, Military or Air Force purposes, and in respect of which rights of common have been extinguished or cannot be exercised.

Notices.

37. The provisions of section sixty-seven of the Conveyancing Act, 1881, shall, unless a contrary intention appears, apply to notices required to be served by any instrument affecting property executed or coming into operation after the commencement of the principal Act.

Constructive notice.

38. The following paragraph shall be inserted at the end of section three of the Conveyancing Act, 1882 :—

"A purchaser shall not be prejudicially affected by notice of any instrument or matter capable of registration under the provisions of the Land Charges Acts which is void or not enforceable as against him under those Acts, by reason of the non-registration thereof."

Application to the Crown.

39.—(1) Nothing in the principal Act shall be construed as rendering any property of the Crown subject to distress, or liable to be taken or disposed of by means of any distress.

(2) The principal Act shall not in any manner (save as otherwise expressly provided) affect or alter the descent, devolution or tenure or the nature of the estates and interests of or in any land for the time being vested in His Majesty either in right of the Crown or of the Duchy of Lancaster or of or in any land for the time being belonging to the Duchy of Cornwall and held in right or in respect of the said Duchy, but so nevertheless that, after the commencement of this Act, no estates, interests or charges in or over any such lands as aforesaid shall be conveyed or created, except such estates, interests or charges as are capable under the principal Act of subsisting or of being conveyed or created.

(3) Subject as aforesaid the principal Act shall bind the Crown.

TRANSITIONAL PROVISIONS.

3RD SCH. —*cont.*

Party structures and open spaces.

40. The following paragraph shall be inserted at the end of the Third Schedule to the principal Act :—

" 5.—(1) Where, immediately before the commencement of this Act, a party wall or other party structure is held in undivided shares, the ownership thereof shall be deemed to be severed vertically as between the respective owners, and the owner of each part shall have such rights to support and of user over the rest of the structure as may be requisite for conferring rights corresponding to those subsisting at the commencement of this Act.

" (2) Where, immediately before the commencement of this Act, an open space of land (with or without any building used in common for the purposes of any adjoining land) is held in undivided shares, in right whereof each owner has rights of access and user over the open space, the ownership thereof shall vest in the Public Trustee on the statutory trusts which shall be executed only with the leave of the court, and, subject to any order to the contrary, each person who would have been a tenant in common shall, until the open space is conveyed to a purchaser, have rights of access and user over the open space corresponding to those which would have subsisted if the tenancy in common had remained subsisting.

" (3) Any person interested may apply to the court for an order declaring the rights and interests under the foregoing provisions, of the persons interested in any such party structure or open space, or generally may apply in relation to those provisions, and the court may make such order as it thinks fit.

" (4) The provisions as to undivided shares do not, save as mentioned in this paragraph, apply to the party structures and open spaces aforesaid."

Mortgages not protected by deposit of documents.

41. Paragraphs 1 and 2 of the Second Schedule to the principal Act shall have effect as if the following sub-paragraph were inserted at the end of each of those paragraphs :—

" (9) A mortgage affecting a legal estate made before the commencement of this Act which is not protected, either by a deposit of documents of title relating to the legal estate or by registration as a land charge, shall not, as against a purchaser in good faith without notice thereof, obtain any benefit by reason of being converted into a legal mortgage

3RD SCH. —*cont.*

by this section, but shall, in favour of such purchaser, be deemed to remain an equitable interest.

"This sub-paragraph does not apply to mortgages or charges registered or protected under the Land Transfer Acts, or to mortgages or charges registered in a local deeds register."

PART II.

PROVISIONS FACILITATING CONSOLIDATION OF THE LAW OF PROPERTY AND CONVEYANCING.

Conveyances overreaching certain equitable interests and powers.

1. The following section shall be substituted for section three of the principal Act :—

" (1) A conveyance to a purchaser of a legal estate in land overreaches any equitable interest or power affecting that estate, whether or not he has notice thereof, if—

" (i) the conveyance is made under the powers conferred by the Settled Land Acts, or the powers conferred by a settlement, and the equitable interest or power is capable of being overreached thereby, and the statutory requirements respecting the payment of capital money arising under the settlement are complied with;

" (ii) the conveyance is made by trustees for sale and the equitable interest or power is at the date of the conveyance capable of being overreached by such trustees under the provisions of subsection (2) of this section or independently of that subsection, and the statutory requirements respecting the payment of capital money arising under a disposition upon trust for sale are complied with;

" (iii) the conveyance is made by a mortgagee or personal representative in the exercise of his paramount powers and the equitable interest or power is capable of being overreached by such conveyance, and any capital money arising from the transaction is paid to the mortgagee or personal representative;

" (iv) the conveyance is made under an order of the court and the equitable interest or power is bound by such order and any capital money arising from the transaction is paid into or in accordance with the order of the court.

" (2) Where the legal estate affected is not, when the equitable interest or power is created, subject to a trust for

3rd Sch. —*cont.*

sale or a settlement, then, if the estate owner, whether before or after the commencement of this Act, disposes of his estate to trustees upon trust for sale, and at the date of a conveyance made, after such commencement, under the disposition upon trust for sale the trustees (whether original or substituted) are either—

" (*a*) two or more individuals or the successors in office of two or more individuals approved or appointed by the court; or

" (*b*) a trust corporation;

such equitable interest or power shall, notwithstanding any stipulation to the contrary, be overreached by the conveyance, and shall, according to its priority, take effect as if created or arising by means of a primary trust affecting the proceeds of sale and the income of the land until sale.

" (3) The following equitable interests and powers are excepted from the operation of subsection (2) of this section, namely—

" (i) Any equitable interest protected by a deposit of documents relating to the legal estate affected;

" (ii) The benefit of any covenant or agreement restrictive of the user of land;

" (iii) Any easement, liberty, or privilege over or affecting land and being merely an equitable interest (in this Act referred to as an " equitable easement ");

" (iv) The benefit of any contract (in this Act referred to as an ' estate contract ') to convey or create a legal estate, including a contract conferring either expressly or by statutory implication a valid option to purchase, a right of pre-emption, or any other like right;

" (v) Any equitable interest protected by registration under the Land Charges Acts, other than—

" (*a*) an annuity within the meaning of the Judgments Act, 1855;

" (*b*) a limited owner's charge or a general equitable charge within the meaning of the Land Charges Acts.

" (4) Subject to the protection afforded by this section to the purchaser of a legal estate, nothing contained in this section shall deprive a person entitled to an equitable charge of any of his rights or remedies for enforcing the charge.

3RD SCH. —*cont.*

" (5) So far as regards the following interests, created before the commencement of this Act (which accordingly are not within the provisions of the Land Charges Acts), namely—

" (*a*) the benefit of any covenant or agreement restrictive of the user of the land;

" (*b*) any equitable easement;

" (*c*) the interest under a puisne mortgage within the meaning of the Land Charges Acts, unless and until acquired under a transfer made after the commencement of this Act;

" (*d*) the benefit of an estate contract, unless and until the same is acquired under a conveyance made after the commencement of this Act;

a purchaser of a legal estate only takes subject thereto if he has notice thereof, and the same are not overreached under the provisions contained or in the manner referred to in this section."

Creation and disposition of equitable interests.

2. The following provisions shall have effect in relation to the creation and acquisition of equitable interests and any existing enactments relating thereto shall have effect accordingly :—

" (1) Interests in land validly created or arising after the commencement of the principal Act, which are not capable of subsisting as legal estates, shall take effect as equitable interests, and, save as otherwise expressly provided by statute, interests in land which under the Statute of Uses or otherwise could before the said date have been created as legal interests, shall be capable of being created as equitable interests :

" Provided that after the said date (and save as otherwise expressly enacted in the principal Act), an equitable interest in land shall only be capable of being validly created in any case in which an equivalent equitable interest in property real or personal could have been validly created before the said date.

" (2) All rights and interests in land may be disposed of, including—

" (*a*) a contingent, executory or future equitable interest in any land, or a possibility coupled with an interest in any land, whether or not the object of the gift or limitation of such interest or possibility be ascertained;

" (*b*) a right of entry, into or upon land whether immediate or future, and whether vested or contingent.

3RD SCH. —*cont.*

" (3) All rights of entry affecting a legal estate which are exercisable on condition broken or for any other reason may after the said date be made exercisable by any person and the persons deriving title under him, but in regard to an estate in fee simple (not being a rentcharge held for a legal estate) only within the period authorised by the rule relating to perpetuities."

Satisfied terms.

3. The Satisfied Terms Act, 1845, as amended by the principal Act, is hereby repealed, and the following provisions shall have effect in lieu thereof :—

" (1) Where the purposes of a term of years created or limited at any time out of freehold land become satisfied either before or after the commencement of this Act (whether or not that term either by express declaration or by construction of law becomes attendant upon the freehold reversion) it shall merge in the reversion expectant thereon and shall cease accordingly.

" (2) Where the purposes of a term of years created or limited, at any time, out of leasehold land, become satisfied after the commencement of this Act, that term shall merge in the reversion expectant thereon and shall cease accordingly.

" (3) Where the purposes are satisfied only as respects part of the land comprised in a term, this section shall have effect as if a separate term had been created in regard to that part of the land."

Saving of lessor's and lessee's covenants.

4. The following subsection shall be substituted for subsection (4) of section twenty-eight of the principal Act :—

" (4) Nothing in this Part of this Act shall affect prejudicially the right to enforce any lessor's or lessee's covenants, agreements or conditions (including a valid option to purchase or right of pre-emption over the reversion) contained in any such instrument as is in this section mentioned, the benefit of burden of which runs with the reversion or the term.

" This subsection shall apply where the covenant, agreement or condition is contained in any instrument :—

" (*a*) creating a term of years absolute; or

" (*b*) varying the rights of the lessor or lessee under the instrument creating the term."

Saving of certain legal estates and powers.

5. The following section shall be substituted for section twenty-nine of the principal Act :—

" 29.—(1) A fee simple which, by virtue of the Lands Clauses Acts, the School Sites Acts, or any similar statute, is liable to be divested, is for the purposes of this Act a fee simple absolute, and remains liable to be divested as if this Act had not been passed.

3RD SCH. —*cont.*

" (2) A fee simple vested in a corporation which is liable to determine by reason of the dissolution of the corporation is, for the purposes of this Act, a fee simple absolute.

" (3) The provisions of—

" (*a*) the Forfeiture Act, 1870, in regard to the land of a convict;

" (*b*) the Friendly Societies Act, 1896, in regard to land to which that Act applies;

" (*c*) any other statutes conferring special facilities or prescribing special modes, whether by way of registered memorial or otherwise, for disposing of or acquiring land, or providing for the vesting, by conveyance or otherwise, of the land in trustees or any person or the holder for the time being of an office or any corporation sole or aggregate (including the Crown);

shall remain in full force.

" Nothing in this subsection shall be deemed to authorise an entailed interest to take effect otherwise than as an equitable interest.

" (4) Where any such power for disposing of or creating a legal estate is exercisable by a person who is not the estate owner, the power shall, when practicable, be exercised in the name and on behalf of the estate owner."

Registration in Middlesex and Yorkshire.

6. The following section shall be substituted for section six of the principal Act :—

" 6.—(1) It shall not be necessary to register a memorial of any instrument made after the commencement of this Act in any local deeds registry unless the instrument operates to transfer or create a legal estate, or to create a charge thereon by way of legal mortgage; nor shall the registration of a memorial of any instrument not required to be registered affect any priority.

" (2) Probates and letters of administration shall be treated as instruments capable of transferring a legal estate to personal representatives.

" (3) Memorials of all instruments capable of transferring or creating a legal estate or charge by way of legal mortgage, may, when so operating, be registered."

Possession of documents.

7. Section thirty-two of the principal Act shall apply only to documents relating to a legal estate in land.

3rd Sch. —*cont.*

Conveyances to infants.

8. The provisions of the Sixth Schedule to the principal Act relating to conveyances of legal estates to infants shall have effect as follows:—

"(1) A conveyance of a legal estate in land to an infant alone or to two or more persons jointly, both or all of whom are infants, shall have such operation as is provided for in the Settled Land Acts.

"(2) A conveyance of a legal estate in land to an infant, jointly with one or more other persons of full age shall operate to vest the legal estate in the other person or persons on the statutory trusts but not so as to sever any joint tenancy in the net proceeds of sale or in the rents and profits until sale, or affect the right of a tenant for life or statutory owner to require settled land to be vested in him.

"(3) The foregoing provisions of this section do not apply to conveyances on trust or by way of mortgage.

"(4) A conveyance of a legal estate to an infant alone or to two or more persons jointly, both or all of whom are infants, on any trusts, shall operate as a declaration of trust and shall not be effectual to pass any legal estate.

"(5) A conveyance of a legal estate in land to an infant jointly with one or more other persons of full age on any trusts shall operate as if the infant had not been named therein, but without prejudice to any beneficial interest in the land intended to be thereby provided for the infant.

"(6) A grant or transfer of a legal mortgage of land to an infant shall operate only as an agreement for valuable consideration to execute a proper conveyance when the infant attains full age, and in the meantime to hold any beneficial interest in the mortgage debt in trust for the persons for whose benefit the conveyance was intended to be made:

"Provided that, if the conveyance is made to the infant and another person or other persons of full age, it shall operate as if the infant had not been named therein, but without prejudice to any beneficial interest in the mortgage debt intended to be thereby provided for the infant."

Powers of management.

9. Land acquired under sub-paragraph (1) of paragraph 4 of the Fourth Schedule to the principal Act shall be conveyed to the trustees on trust for sale.

3RD SCH. —*cont.*

Joint tenancies.

10. The provisions of the Third Schedule to the principal Act relating to joint tenancies shall have effect as follows :—

" (1) Where a legal estate (not being settled land) is beneficially limited to or held in trust for any persons as joint tenants, it shall be held on trust for sale, in like manner as if the persons beneficially entitled were tenants in common, but not so as to sever their joint tenancy in equity.

" (2) No severance of a joint tenancy of a legal estate, so as to create a tenancy in common in land, shall be permissible, whether by operation of law or otherwise; but this subsection does not affect the right of a joint tenant to release his interest to the other joint tenants, or the right to sever a joint tenancy in an equitable interest (whether or not the legal estate is vested in the joint tenants) :

" Provided that where a legal estate (not being settled land) is vested in joint tenants beneficially, and any tenant desires to sever the joint tenancy in equity, he shall give to the other joint tenants a notice in writing of such desire or do such other acts or things as would, in the case of personal estate, have been effectual to sever the tenancy in equity, and thereupon, under the trust for sale affecting the land, the net proceeds of sale, and the net rents and profits until sale, shall be held upon the trusts which would have been requisite for giving effect to the beneficial interests if there had been an actual severance.

" (3) Without prejudice to the right of a joint tenant to release his interest to the other joint tenants no severance of a mortgage term or trust estate, so as to create a tenancy in common, shall be permissible."

Application of insurance money.

11. The following section shall be substituted for section one hundred and five of the principal Act :—

" 105. (1) Where after the date of any contract for sale or exchange of property, money becomes payable under any policy of insurance maintained by the vendor in respect of any damage to or destruction of property included in the contract, the money shall, on completion of the contract, be held or receivable by the vendor on behalf of the purchaser and paid by the vendor to the purchaser on completion of the sale or exchange, or so soon thereafter as the same shall be received by the vendor.

" (2) This section applies only to contracts made after the commencement of this Act, and has effect subject to—

" (*a*) any stipulation to the contrary contained in the contract ;

3RD SCH. —*cont.*

"(*b*) any requisite consents of the insurers;

"(*c*) the payment by the purchaser of the proportionate part of the premium from the date of the contract.

"(3) This section applies to a sale or exchange by an order of the court, as if—

"(*a*) for references to the 'vendor' there were substituted references to the 'person bound by the order';

"(*b*) for the reference to the completion of the contract there were substituted a reference to the payment of the purchase or equality money (if any) into court;

"(*c*) for the reference to the date of the contract there were substituted a reference to the time when the contract becomes binding."

Discharge of incumbrances.

12. Section five of the Conveyancing Act, 1881, shall apply to sales and exchanges made at any time and to incumbrances whether created by statute or otherwise.

Lands lie in grant.

13. Section two of the Real Property Act, 1845, and section forty-nine of the Conveyancing Act, 1881, are hereby repealed, and the following provisions shall have effect in lieu thereof:

"(1) All lands and all interests therein lie in grant and are incapable of being conveyed by livery or livery and seisin, or by feoffment, or by bargain and sale; and a conveyance of an interest in land may operate to pass the possession or right to possession thereof, without actual entry, but subject to all prior rights thereto.

"(2) The use of the word "grant" is not necessary to convey land or to create any interest therein.

Conveyances to be by deed.

14.—(1) All conveyances of land or of any interest therein are void for the purpose of conveying or creating a legal estate unless made by deed.

(2) This section shall not apply to—

(*a*) Assents by a personal representative;

(*b*) Disclaimers made in accordance with section fifty-four of the Bankruptcy Act, 1914, or not required to be evidenced in writing;

(*c*) Surrenders by operation of law, including surrenders which may, by law, be effected without writing;

(*d*) Leases or tenancies or other assurances not required by law to be made in writing;

3RD SCH. —*cont.*

(*e*) Receipts not required by law to be under seal;

(*f*) Vesting orders of the court or other competent authority;

(*g*) Conveyances taking effect by operation of law.

(3) The foregoing provisions of this paragraph shall have effect in substitution for section three of the Real Property Act, 1845.

Amendment of ss. 1–3 and 7–9 of Statute of Frauds.

15. Sections one to three and seven to nine of the Statute of Frauds shall take effect as if inserted in the principal Act and be read as follows :—

" (1) Subject to the provisions hereinafter contained with respect to the creation of interests in land by parol—

" (*a*) no interest in land can be created or disposed of except by writing signed by the person creating or conveying the same, or by his agent thereunto lawfully authorised in writing, or by will, or by operation of law;

" (*b*) a declaration of trust respecting any land or any interest therein must be manifested and proved by some writing signed by some person who is able to declare such trust or by his will;

" (*c*) a disposition of an equitable interest or trust subsisting at the time of the disposition, must be in writing signed by the person disposing of the same or by his agent thereunto lawfully authorised in writing or by will.

" (2) This section does not affect the creation or operation of resulting, implied or constructive trusts.

" (3) All interests in land created by parol and not put in writing and signed by the persons so creating the interest, or by their agents thereunto lawfully authorised in writing, have, notwithstanding any consideration having been given for the same, the force and effect of interests at will only.

" (4) Nothing in the foregoing provisions shall affect the creation by parol of leases taking effect in possession for a term not exceeding three years, whether or not the lessee is given power to extend the term, at the best rent which can be reasonably obtained without taking a fine.

" (5) Nothing in the foregoing provisions shall—

" (*a*) invalidate dispositions by will; or

" (*b*) affect any interest validly created before the commencement of this Act; or

3rd Sch. —*cont.*

"(*c*) affect the right to acquire an interest in land by virtue of taking possession; or

"(*d*) affect the operation of the law relating to part performance."

Voluntary conveyance.

16. The following provision shall be inserted at the end of section seventy-two of the principal Act:—

"In a voluntary conveyance a resulting trust for the grantor shall not be implied merely by reason that the property is not expressed to be conveyed for the use or benefit of the grantee."

General words.

17. In subsection (3) of section six of the Conveyancing Act, 1881, after the words "heriots fines" there shall be inserted the words "or the right to compensation on the extinguishment of any subsisting quit rents, reliefs, heriots, fines and other manorial incidents."

Confirmation of past transactions.

18. The power to confirm past transactions, conferred by section twenty-five of the principal Act, when exercised by any person other than an absolute owner, shall be exercisable only with the leave of the court.

Restrictive covenants.

19.—(1) In subsection (4) of section ninety of the principal Act, for "Authority" where that word first occurs there shall be substituted the words "Reference Committee mentioned in this section."

(2) The words "nor to restrictions created or imposed—

"(*a*) for Naval, Military or Air Force purposes,

"(*b*) for civil aviation purposes under the powers of the Air Navigation Act, 1920,"

shall be inserted at the end of subsection (10) of the said section ninety.

Realisation of mortgages.

20.—(1) It is hereby declared that sub-paragraph (4) of paragraph 5, and sub-paragraph (4) of paragraph 6 of the Second Schedule to the principal Act have effect for the purpose of enabling the sub-mortgagee to convey the fee simple or the leasehold reversion, as the case may be, or to acquire it by foreclosure, enlargement, vesting or otherwise.

(2) After the words "if any" in sub-paragraph (5) of paragraph 5 of the said Schedule, the words "not being merely equitable charges" shall be inserted.

Realisation of equitable charges by the court.

21. The following paragraph shall be substituted for paragraph 7 of the Second Schedule to the principal Act:—

"7.—(1) Where an order for sale is made by the court in relation to an equitable mortgage on land (not secured by a legal term of years absolute or by a charge by way of legal mortgage) the court may, in favour of a purchaser,

3RD SCH. —*cont.*

make a vesting order conveying the land or may appoint a person to convey the land or create and vest in the mortgagee a legal term of years absolute to enable him to carry out the sale, as the case may require, in like manner as if the mortgage had been created by deed by way of legal mortgage pursuant to this Act, but without prejudice to any incumbrance having priority to the equitable mortgage unless the incumbrancer consents to the sale.

"(2) This paragraph shall apply to equitable mortgages made or arising before or after the commencement of this Act, but not to a mortgage which has been overreached under powers conferred by this Act or otherwise."

Tacking and further advances.

22. The following sub-paragraphs shall be substituted for sub-paragraphs (2) to (5) of paragraph 8 of the Second Schedule to the principal Act:—

"(2) After the commencement of this Act, a prior mortgagee shall have a right to make further advances to rank in priority to subsequent mortgages (whether legal or equitable)—

"(*a*) if an arrangement has been made to that effect with the subsequent mortgagees; or

"(*b*) if he had no notice of the subsequent mortgages at the time when the further advance was made by him; or

"(*c*) if the mortgage imposes an obligation on the prior mortgagee to make such further advances whether or not he had such notice as aforesaid.

"This sub-paragraph applies whether or not the prior mortgage was made expressly for securing further advances.

"(3) In relation to the making of further advances after the commencement of this Act a mortgagee shall not be deemed to have notice of a mortgage merely by reason that it was registered as a land charge or in a local deeds registry, if it was not so registered at the date of the original advance or when the last search (if any) by or on behalf of the mortgagee was made, whichever last happened.

"This sub-paragraph applies only where the prior mortgage was made expressly for securing a current account or other further advances.

"(4) Save in regard to the making of further advances as aforesaid the right to tack is hereby abolished:

"Provided that nothing in this Act shall affect any priority acquired before the commencement of this Act by tacking, or in respect of further advances made without

3rd Sch. —*cont.*

notice of a subsequent incumbrance or by arrangement with the subsequent incumbrancer.

"(5) This paragraph applies to mortgages of land made before or after the commencement of this Act, but not to charges registered under the Land Transfer Acts."

Actions for possession.

23. Subsection (5) of section twenty-five of the Supreme Court of Judicature Act, 1873, does not prejudice the power of a mortgagor, independently of that subsection, to take proceedings in his own name only, either in right of any legal estate vested in him or otherwise.

Notice of trusts affecting mortgage debts.

24. The following section shall be substituted for section eighty-five of the principal Act :—

"85.—(1) A person dealing in good faith with a mortgagee, or with the mortgagor if the mortgage has been wholly or partially discharged, released or postponed, shall not be concerned with any trust at any time affecting the mortgage money or the income thereof, whether or not he has notice of the trust, and may assume, unless the contrary is expressly stated in the instruments relating to the mortgage—

"(*a*) that the mortgagees, if more than one, are or were entitled to the mortgage money on a joint account; and

"(*b*) that the mortgagee has or had power to give valid receipts for the purchase money or mortgage money and the income thereof (including any arrears of interest) and to release or postpone the priority of the mortgage debt or any part thereof or to deal with the same or the mortgaged property or any part thereof;

without investigating the equitable title to the mortgage debt or the appointment or discharge of trustees in reference thereto.

"(2) This section shall apply to mortgages made before or after the commencement of this Act, but only as respects dealings effected after that date.

"(3) This section shall not affect the liability of any person in whom the mortgage debt is vested for the purposes of any trust to give effect to that trust."

Forms of statutory mortgages.

25. In subsection (2) of section twenty-six of the Conveyancing Act, 1881, after the words "pay to the mortgagee" where those words secondly occur, the words "as well after as before any judgment is obtained under the mortgage" shall be inserted.

3RD SCH. —*cont.*

Attornments.

26. The following provisions shall have effect in relation to attornments, and any existing enactments relating thereto shall have effect accordingly :—

" (1) Where land is subject to a lease—

" (*a*) the conveyance of a reversion in the land expectant on the determination of the lease; or

" (*b*) the creation or conveyance of a rentcharge to issue or issuing out of the land;

shall be valid without any attornment of the lessee:

" Provided that nothing in this subsection—

" (i) shall affect the validity of any payment of rent by the lessee to the person making the conveyance or grant before notice of the conveyance or grant is given to him by the person entitled thereunder; or

" (ii) shall render the lessee liable for any breach of covenant to pay rent on account of his failure to pay rent to the person entitled under the conveyance or grant before such notice is given to the lessee.

" (2) An attornment by the lessee in respect of any land to a person claiming to be entitled to the interest in the land of the lessor, if made without the consent of the lessor, shall be void.

" This subsection shall not apply to an attornment—

" (*a*) made pursuant to a judgment of a court of competent jurisdiction; or

" (*b*) to a mortgagee, by a lessee holding under a lease from the mortgagor where the right of redemption is barred; or

" (*c*) to any other person rightfully deriving title under the mortgagor."

Enlargement of long terms.

27. The following paragraph shall be substituted for paragraph (i) of subsection (2) of section sixty-five of the Conveyancing Act, 1881 :—

" (i) Any person beneficially entitled in right of the term, whether subject to any incumbrance or not, to possession of any land comprised in the term, and in the case of a married woman without the concurrence of her husband, whether or not she is entitled for her separate use or as her separate property, or is subject to a restraint on anticipation."

Accumulations.

28.—(1) Nothing in the Accumulations Act, 1800, shall prevent accumulations being made for raising portions for any child, or remoter issue of any grantor, settlor or testator, or for any child or remoter issue of a person taking any interest under any settlement or other disposition directing the accumulations, or to whom any interest is thereby limited.

3rd Sch. —*cont.*

(2) Section one of the Accumulations Act, 1892, shall not apply to accumulations to be held as capital money for the purposes of the Settled Land Acts, whether or not the accumulations are primarily liable to be laid out in the purchase of land.

Disclaimer.

29. It shall not be necessary for a husband to be a party to any disclaimer by his wife under section seven of the Real Property Act, 1845, where—

(*a*) the wife, if there were no disclaimer, would have been entitled to the property for her separate use or as her separate property; or

(*b*) the property consists of a trust estate.

Settlements on behalf of lunatics.

30. For the purposes of paragraph 8 of the Sixth Schedule to the principal Act "the court" means the Judge in Lunacy, except that in such cases as may be prescribed by rules of court it shall mean the High Court; and rules in lunacy or, as respects cases within the jurisdiction of the High Court, rules of court, may be made for giving effect to the provisions of that paragraph.

Voluntary conveyances to defraud creditors.

31. The following provisions shall be substituted for the statute 13 Elizabeth c. 5 :—

"(1) Save as hereinafter provided, every conveyance of property made whether before or after the commencement of this Act, with intent to defraud creditors, is voidable, at the instance of any person thereby prejudiced.

"(2) This provision does not—

(*a*) affect the operation of a disentailing assurance, or the law of bankruptcy for the time being in force; or

(*b*) extend to any estate or interest in property conveyed for valuable consideration and in good faith, or upon good consideration and in good faith, to any person not having, at the time of the conveyance, notice of the intent to defraud creditors."

Voluntary dispositions as respects purchasers.

32. The following provisions shall be substituted for the statute 27 Elizabeth c. 4 as amended :—

"(1) Every voluntary disposition of land made with intent to defraud a subsequent purchaser is voidable at the instance of that purchaser.

"(2) For the purposes of this provision no voluntary disposition, whenever made, shall be deemed to have been made with intent to defraud by reason only that a subsequent conveyance for valuable consideration was made, if such subsequent conveyance was made after the twenty-eighth day of June, eighteen hundred and ninety-three."

Acquisitions of reversions.

33. The following provisions shall be substituted for the Sales of Reversions Act, 1867 :—

"(1) No acquisition made in good faith, without fraud or unfair dealing, of any reversionary interest in real or

3RD SCH. —*cont.*

personal property, for money or money's worth, shall be liable to be opened or set aside merely on the ground of under value.

"In this subsection 'reversionary interest' includes an expectancy or possibility.

"(2) This provision shall not affect the jurisdiction of the court to set aside or modify unconscionable bargains."

Corporations sole.

34. In subsection (7) of section seventy-three of the principal Act the expression "corporation sole" includes the Crown.

Protection of solicitors and trustees, &c.

35. The provisions of section sixty-six of the Conveyancing Act, 1881, shall apply to matters enacted in the principal Act which are similar to those referred to in that section.

Registration of memorials.

36. The following provisions shall have effect in lieu of the provisions in section six of the principal Act as to notice and of sub-paragraph (4) of paragraph 8 of the Second Schedule to that Act:—

"(1) The registration in a local deeds registry of a memorial of any instrument transferring or creating a legal estate or charge by way of legal mortgage, shall be deemed to constitute actual notice of the transfer or creation of the legal estate or charge by way of legal mortgage, to all persons and for all purposes whatsoever, as from the date of registration or other prescribed date, and so long as the registration continues in force.

"(2) The registration of a memorial of an instrument not required to be registered shall not operate so as to give notice of such instrument or of the contents thereof.

"(3) This section operates without prejudice to the provisions of this Act respecting the making of further advances by a mortgagee, and shall apply only to land within the jurisdiction of the registry."

Registration under Land Charges Acts.

37. The following sub-paragraph shall be inserted at the end of paragraph 1 of the Seventh Schedule to the principal Act:—

"(8) The registration under the Land Charges Acts, of any instrument or matter in any register kept at the land registry or elsewhere, shall be deemed to constitute actual notice of such instrument or matter, and of the fact of the registration, to all persons and for all purposes connected with the land affected, as from the date of registration or other prescribed date and so long as the registration continues in force.

"Nothing in this paragraph shall affect the provisions of this Act respecting the making of further advances by a mortgagee, and this paragraph shall apply only to instruments and matters required or authorised to be registered under the Land Charges Acts.

TRANSITIONAL PROVISIONS.

3RD SCH. —*cont.*

Outstanding legal estates.

38. The following provisions shall be substituted for the provisions of Part I. of the First Schedule to the principal Act :—

"(1) Where the purposes of a term of years, created or limited out of leasehold land, are satisfied at the commencement of this Act, that term shall merge in the reversion expectant thereon and shall cease accordingly; but where the term was vested in the owner of the reversion, then without prejudice to any protection which would have been afforded to the owner for the time being of that reversion had the term remained subsisting. Where the purposes are satisfied only as respects part of the land comprised in a term, this provision has effect as if a separate term had been created in regard to that part of the land.

"(2) Where immediately after the commencement of this Act any owner of a legal estate is entitled, subject or not to the payment of the costs of tracing the title and of conveyance, to require any other legal estate in the same land to be surrendered, released or conveyed to him so as to merge or be extinguished, the last-mentioned estate shall by virtue of this Part of this Schedule be extinguished, but without prejudice to any protection which would have been afforded to him had that estate remained subsisting.

"(3) Where immediately after the commencement of this Act any person is entitled, subject or not to the payment of the cost of tracing the title and of conveyance, to require any legal estate (not vested in trustees for sale) to be conveyed to or otherwise vested in him, such legal estate shall, by virtue of this Part of this Schedule, vest in manner hereinafter provided.

"This paragraph shall, without prejudice to any claim in respect of fines, fees, and other customary payments, apply to a person who, under a surrender or any disposition having the effect of a surrender, or under a covenant to surrender or otherwise, was, immediately before the commencement of this Act, entitled to require a legal customary estate of inheritance to be vested in him, or who, immediately after such commencement becomes entitled to enfranchised land.

"(4) Any person who, immediately after the commencement of this Act, is entitled to an equitable interest capable of subsisting as a legal estate which has priority over any legal estate in the same land, shall be deemed to be entitled for the foregoing purposes to require a legal estate to be vested in him for an interest of a like nature not exceeding in extent or duration the equitable interest :

3RD SCH. —*cont.*

"Provided that this paragraph shall not—

"(*a*) apply where the equitable interest is capable of being over-reached by virtue of a subsisting trust for sale or a settlement;

"(*b*) operate to prevent such person from acquiring any other legal estate under this Part of this Schedule to which he may be entitled.

"(5) For the purposes of this Part of this Schedule a tenant for life, statutory owner or personal representative, shall be deemed to be entitled to require to be vested in him any legal estate in settled land (whether or not vested in the Crown) which he is, by the Settled Land Acts, given power to convey.

"(6) Under the provisions of this Part of this Schedule the legal estate affected (namely, any estate which a person is entitled to require to be vested in him as aforesaid) shall vest as follows:—

"(*a*) Where at the commencement of this Act land is subject to a mortgage (not being an equitable charge unsecured by any estate), the legal estate affected shall vest in accordance with the provisions relating to mortgages contained in this Act;

"(*b*) Where the land is at the commencement or by virtue of this Act or any Act coming into operation at the same time subject or is by virtue of any statute made subject to a trust for sale, the legal estate affected shall vest in the trustees for sale (including personal representatives holding land on trust for sale) but subject to any mortgage term subsisting or created by this Act;

"(*c*) Where at the commencement of this Act or by virtue of any statute coming into operation at the same time the land is settled land, the legal estate affected shall vest in the tenant for life or statutory owner entitled under the Settled Land Acts, to require a vesting deed to be executed in his favour or in the personal representative (if any) in whom the land may be vested or the Public Trustee, as the case may require, but subject to any mortgage term subsisting or created by this Act;

"(*d*) In any case to which the foregoing sub-paragraphs (*a*), (*b*) and (*c*) do not apply the legal estate affected shall vest in the person of full age who, immediately after the commencement of this Act, is entitled (subject or not to the payment of costs and any customary payments) to require the legal estate to be vested in him, but subject to any mortgage term subsisting or created by this Act.

3rd Sch. —*cont.*

"(7) Nothing in this Part of this Schedule shall operate—

"(*a*) To vest in a mortgagee of a term of years absolute any nominal leasehold reversion, which is held in trust for him subject to redemption; or

"(*b*) To vest in a mortgagee any legal estate except a term of years absolute; or

"(*c*) To vest in a person entitled to a leasehold interest, as respects such interest, any legal estate except a term of years absolute; or

"(*d*) To vest in a person entitled to a rentcharge (either perpetual or held for a term of years absolute) as respects such rentcharge any legal estate except a legal estate in the rentcharge; or

"(*e*) To vest in a person entitled to an easement, right or privilege with reference thereto, any legal estate except a legal estate in the easement, right or privilege; or

"(*f*) To vest any legal estate in a person for an undivided share; or

"(*g*) To vest any legal estate in an infant; or

"(*h*) To affect prejudicially the priority of any mortgage or other incumbrance or interest subsisting at the commencement of this Act; or

"(*i*) To render invalid any limitation or trust which would have been capable of taking effect as an equitable limitation or trust; or

"(*j*) To vest in a purchaser or his personal representatives any legal estate which he has contracted to acquire and in regard to which a contract (including an agreement to create a legal mortgage) is pending at the commencement of this Act, although the consideration may have been paid or satisfied and the title accepted, or to render unnecessary the conveyance of such estate.

"(*k*) To vest in the managing trustees or committee of management of a charity any legal estate vested in the Official Trustee of Charity Lands.

"(8) Any legal estate acquired by virtue of this Part of this Schedule shall be held upon the trusts and subject to the powers, provisions, rents, covenants, conditions, rights of redemption (as respects terms of years absolute) and other rights, burdens and obligations (if any) upon or subject to which the estate acquired ought to be held.

"(9) No stamp duty shall become payable by reason only of any vesting, surrender or release effected by this Act."

3RD SCH. —*cont.*

Legal estates of infants.

39. The following provisions shall be substituted for paragraph 2 of the Sixth Schedule to the principal Act :—

" (1) Where immediately before the commencement of this Act a legal estate in land is vested in one or more infants beneficially, or where immediately after the commencement of this Act a legal estate in land would by virtue of this Act have become vested in one or more infants beneficially if he or they had been of full age, the legal estate shall vest in the manner provided by the Settled Land Acts.

" (2) Where immediately before the commencement of this Act a legal estate in land is vested in an infant jointly with one or more other persons of full age beneficially, the legal estate shall by virtue of this Act vest in that other person or those other persons on the statutory trusts, but not so as to sever any joint tenancy in the net proceeds of sale or in the rents and profits until sale :

" Provided that if by virtue of this sub-paragraph the legal estate shall become vested in one person as trustee then if no other person is able and willing to do so the parents or parent or testamentary or other guardian of the infant, if respectively able and willing to act (in the order named), may and at the request of any person interested shall (subject to the costs being provided for) by writing appoint an additional trustee and thereupon by virtue of this Act the legal estate shall vest in the additional trustee and existing trustee as joint tenants.

" (3) Where, immediately before the commencement of this Act, a legal estate in land is vested solely in an infant as a personal representative, or a trustee of a settlement, or on trust for sale or on any other trust, or by way of mortgage, or where immediately after the commencement of this Act a legal estate in land would by virtue of any provision of this Act or otherwise have been so vested if the infant were of full age, the legal estate and the mortgage debt (if any) and interest thereon shall, by virtue of this Act, vest in the Public Trustee, pending the appointment of trustees as hereinafter provided—

" (*a*) as to the land, upon the trusts, and subject to the equities affecting the same (but in the case of a mortgage estate for a term of years absolute in accordance with this Act); and

" (*b*) as to the mortgage debt and interest, upon such trusts as may be requisite for giving effect to the rights (if any) of the infant or other persons beneficially interested therein :

3RD SCH. —*cont.*

" Provided that—

" (i) The Public Trustee shall not be entitled to act in the trust, or charge any fee, or be liable in any manner unless and until requested in writing to act by or on behalf of the persons interested in the land or the income thereof, or in the mortgage debt or interest thereon (as the case may be), which request may be made on behalf of the infant by his parents or parent or testamentary or other guardian (in the order named), and those persons may, in the order aforesaid (if no other person is able and willing to do so) appoint new trustees in the place of the Public Trustee and thereupon by virtue of this Act the land or term and mortgage money shall vest in the trustees so appointed upon the trusts and subject to the equities aforesaid : Provided that the Public Trustee may, before he accepts the trust, but subject to the payment of his costs, convey to a person of full age who becomes entitled :

" (ii) After the Public Trustee has been so requested to act and has accepted the trust, no trustee shall (except by an order of the court) be appointed in his place without his consent :

" (iii) Any person interested in the land or the income thereof, or in the mortgage debt or in the interest thereon (as the case may be), may, at any time during the minority, apply to the court for the appointment of trustees of the trust, and the court may make such order as it thinks fit, and if thereby new trustees are appointed the legal estate (but in the case of a mortgage estate only for a term of years absolute as aforesaid) and the mortgage debt (if any) and interest shall, by virtue of this Act, vest in the trustees as joint tenants upon the trusts and subject to the equities aforesaid :

' (iv) Neither a purchaser of the land nor a transferee for money or money's worth of the mortgage shall be concerned in any way with the trusts affecting the legal estate or the mortgage debt and interest thereon :

" (v) The vesting in the Public Trustee of a legal estate or a mortgage debt by virtue of this Part of this Schedule shall not affect any directions previously given as to the payment of income

3RD SCH. —*cont.*

or of interest on any mortgage money, but such instructions may, until he accepts the trust, continue to be acted on as if no such vesting had been effected.

" (4) Where, immediately before the commencement of this Act, a legal estate in land is vested in two or more persons jointly as personal representatives, trustees, or mortgagees, and anyone of them is an infant, or where immediately after the commencement of this Act a legal estate in land would, by virtue of this Act, or otherwise have been so vested if the infant were of full age, the legal estate in the land with the mortgage debt (if any) and the interest thereon shall, by virtue of this Act, vest in the other person or persons of full age—

" (*a*) as to the legal estate, upon the trusts and subject to the equities affecting the same (but in the case of a mortgage estate only for a term of years absolute as aforesaid), and

" (*b*) as to the mortgage debt and interest, upon such trusts as may be requisite for giving effect to the rights (if any) of the infant or other persons beneficially interested therein;

but neither a purchaser of the land nor a transferee for money or money's worth of the mortgage shall be concerned in any way with the trusts affecting the legal estate or the mortgage debt and interest thereon :

" Provided that if, by virtue of this sub-paragraph, the legal estate and mortgage debt (if any) become vested in a sole trustee, then, if no other person is able and willing to do so, the parents or parent, testamentary or other guardian of the infant (in the order named) may, and at the request of any person interested shall (subject to the costs being provided for) by writing appoint a new trustee in place of the infant, and thereupon by virtue of this Act the legal estate and mortgage money shall vest in the new and continuing trustees upon the trusts and subject to the equities aforesaid.

" (5) The foregoing provisions shall not affect the estate or powers of an administrator durante minore ætate, nor, where there is a tenant for life of full age or a statutory owner of settled land, operate to vest the legal estate therein in the Public Trustee."

Undivided shares.

40.—(1) The vesting in the Public Trustee of a legal estate by virtue of the Third Schedule to the principal Act shall not affect any directions previously given as to the payment of income or of interest on any mortgage money, but such instructions may, until he accepts the trust, continue to be acted on as if no such vesting had been effected.

(2) The provisions of the principal Act respecting undivided shares and joint ownership shall bind the Crown.

41. Sub-paragraph (4) of paragraph 3 of the Third Schedule to the principal Act shall have effect without prejudice to any beneficial interest. 3rd Sch. —*cont.* Tenancies by entireties.

42. Paragraphs 1 and 2 of the Second Schedule to the principal Act shall not affect priorities. Freehold and leasehold mortgages.

Forms.

43. The Ninth Schedule to the principal Act shall have effect as if the following form were included therein :— Conveyance on sale by mortgagees.

Conveyance on Sale by Mortgagees.

" This Conveyance is made [&c.] between *A.* of [&c.] and *B.* of [&c.] (hereinafter called the Vendors) of the one part and *C.* of [&c.] (hereinafter called the Purchaser) of the other part [*Recite the Legal Charge or the Mortgage, with or without a deed converting the Mortgage into a legal charge and the agreement for sale*].

" Now in consideration of the sum of £ paid by the Purchaser to the Vendors (the receipt, &c.) this deed witnesseth as follows :—

" 1. The Vendors as Mortgagees in exercise of the power for this purpose conferred on them by statute, and of all other powers hereby convey unto the Purchaser All Those, &c.

" To Hold unto the Purchaser [in fee simple] discharged from all right of redemption and claims under the recited Legal Charge [Mortgage].

" 2. [*Add any necessary acknowledgments as to documents retained and any other special provisions.*]

" In witness &c."

FOURTH SCHEDULE.

Settled Land.

Part I.

Amendments.

1. The following definition shall be substituted for the definition of settlement in subsections (1) and (2) of section two of the Act of 1882 :— Meaning of " settlement."

" (1) Any deed, will, agreement for a settlement, or other agreement, Act of Parliament, or other instrument, or any number of instruments, whether made or passed before

4TH SCH. —*cont.*

or after, or partly before and partly after, the commencement of this Act, under or by virtue of which instrument or instruments any land, after the commencement of this Act, stands for the time being—

"(i) limited in trust for any persons by way of succession; or

"(ii) limited in trust for any person in possession—

"(*a*) for an entailed interest whether or not capable of being barred or defeated;

"(*b*) for an estate in fee simple or for a term of years absolute subject to an executory limitation, gift, or disposition over on failure of his issue or in any other event;

"(*c*) for a base or determinable fee or any corresponding interest in leasehold land;

"(*d*) being an infant, for an estate in fee simple or for a term of years absolute; or

"(iii) limited in trust for any person for an estate in fee simple or for a term of years absolute contingently on the happening of any event; or

"(iv) limited to or in trust for a married woman of full age in possession for an estate in fee simple or for a term of years absolute with a restraint on anticipation; or

"(v) charged, whether voluntarily or in consideration of marriage or by way of family arrangement, and whether immediately or after an interval, with the payment of any rentcharge for the life of any person, or any less period, or of any capital, annual, or periodical sums for the portions, advancement, maintenance, or otherwise for the benefit of any persons (with or without any term of years for securing or raising the same);

creates or is for the purposes of this Act a settlement and is in this Act referred to as a settlement, or as the settlement, as the case requires:

"Provided that where land is the subject of a compound settlement, references in this Act to the settlement shall be construed as meaning such compound settlement, unless the context otherwise requires.

"(2) Where an infant is beneficially entitled to land for an estate in fee simple or for a term of years absolute and by reason of an intestacy or otherwise there is no instrument under which the interest of the infant arises or is acquired, a settlement shall be deemed to have been

made by the intestate, or by the person whose interest the infant has acquired. 4TH SCH. —*cont.*

"(3) An infant shall be deemed to be entitled in possession notwithstanding any subsisting right of dower (not assigned by metes and bounds) affecting the land; and such right of dower shall be deemed an interest comprised in the subject of the settlement, and coming to the dowress under or by virtue of the settlement:

"Provided that where dower has been assigned by metes and bounds the letters of administration or probate granted in respect of the estate of the husband of the dowress shall be deemed the settlement.

"(4) An estate or interest not disposed of by a settlement, and remaining in or reverting to the settlor, or any person deriving title under him, is for the purposes of this Act an estate or interest comprised in the subject of the settlement, and coming to the settlor or such person under or by virtue of the settlement.

"(5) Where—

"(*a*) a settlement creates an entailed interest which is incapable of being barred or defeated, or a base or determinable fee (whether or not the reversion or right of reverter is in the Crown) or any corresponding interest in leasehold land; or

"(*b*) the subject of a settlement is an entailed interest, or a base or determinable fee (whether or not the reversion or right of reverter is in the Crown) or any corresponding interest in leasehold land;

the reversion or right of reverter upon the cesser of the interest so created or settled shall be deemed to be an interest comprised in the subject of the settlement, and limited by the settlement.

"This subsection and the last preceding subsection bind the Crown."

Acquisition of land to be settled.

2.—(1) The following provisions shall be substituted for sub-paragraphs (2) to (7) of paragraph 2 of the Fifth Schedule to the principal Act relating to the procedure on the acquisition of land, namely:—

"(1) Where after the commencement of this Act land is acquired with capital money arising under a settlement or in exchange for settled land, or a rentcharge is reserved on a grant of settled land, the land shall be conveyed to, and the rentcharge by virtue of this Act shall become vested in, the tenant for life or statutory owner, and such conveyance or grant is in this Act referred to as a subsidiary vesting deed:

4TH SCH. —*cont.*

"Provided that where an instrument is subsisting at the commencement of this Act, or is made or comes into operation after such commencement, by virtue of which any money or securities are liable under the Settled Land Acts, or under a trust or direction contained in such instrument, to be invested in the purchase of land to be conveyed so as to become settled land, but at the commencement of this Act, or when such instrument is made or comes into operation after such commencement (as the case may be), there is no land in respect of which a principal vesting deed is capable of being executed, the first deed after the commencement of this Act by which any land is acquired as aforesaid shall be a principal vesting deed and shall be framed accordingly.

"(2) A subsidiary vesting deed executed on the acquisition of land to be made subject to a settlement shall contain the following statements and particulars, namely :—

"(*a*) Particulars of the last or only principal vesting instrument affecting land subject to the settlement :

"(*b*) A statement that the land conveyed is to be held upon and subject to the same trusts and powers as the land comprised in such last or only principal vesting instrument :

"(*c*) The names of the persons who are the trustees of the settlement :

"(*d*) The name of any person for the time being entitled to appoint new trustees of the settlement.

"(3) A subsidiary vesting deed reserving a rentcharge on a grant of settled land shall contain the following statements and particulars :—

"(*a*) A statement that the rentcharge is vested in the grantor and is subject to the settlement which, immediately before the grant, was subsisting with respect to the land out of which it was reserved :

"(*b*) Particulars of the last or only principal vesting instrument affecting such land.

"(4) A subsidiary vesting deed shall not be invalidated by reason only of any error in any of the statements or particulars by this Act required to be contained therein.

"(5) The acquisition of the land shall not operate to increase or multiply charges or powers of charging."

Meaning of "tenant for life."

3. The following definition shall be substituted for the definition of tenant for life in subsections (5), (6) and (7) of section two of the Act of 1882 :—

"(5) The person of full age who is for the time being, under a settlement, beneficially entitled to possession of

settled land for his life is for the purposes of this Act the tenant for life of that land, and the tenant for life under that settlement. 4TH SCH. —*cont.*

"(6) If, in any case, there are two or more persons of full age so entitled as joint tenants, they together constitute the tenant for life for the purposes of this Act.

"(7) If in any case there are two or more persons so entitled as joint tenants and they are not all of full age, such one or more of them as is or are for the time being of full age is or (if more than one) together constitute the tenant for life for the purposes of this Act, but this subsection does not affect the beneficial interests of such of them as are not for the time being of full age.

"(7A) A person being tenant for life within the foregoing definitions shall be deemed to be such notwithstanding that, under the settlement or otherwise, the settled land, or his estate or interest therein, is incumbered or charged in any manner or to any extent, and notwithstanding any assignment by operation of law or otherwise of his estate or interest under the settlement, whether before or after it came into possession, other than an assurance which extinguishes such estate or interest."

Procedure on appointment or discharge of a trustee

4. The following provisions as to procedure on the appointment or discharge of a trustee of the settlement shall have effect as if inserted at the end of the Fifth Schedule to the principal Act :—

"14.—(1) Whenever a new trustee for the purposes of the Settled Land Acts is appointed of a trust instrument, or a trustee thereof for the purposes aforesaid is discharged from the trust without a new trustee being appointed, a deed shall be executed supplemental to the last or only principal vesting instrument containing a declaration that the persons therein named, being the persons who after such appointment or discharge (as the case may be) are the trustees of the trust instrument for the purposes aforesaid are the trustees of the settlement for those purposes; and a memorandum shall be endorsed on or annexed to the last or only principal vesting instrument in accordance with the Trustee Act, 1893, as amended.

"(2) Such deed shall, if the trustee was appointed or discharged by the court, be executed by such person as the court may direct, and, in any other case, shall be executed by—

"(i) the person (if any) named in such principal vesting instrument as the person for the time being entitled to appoint new trustees of the settlement, or if no person is so named, or such person is dead

4TH SCH. —*cont.*

or unable or unwilling to act, the persons who if such principal vesting instrument had been the only instrument constituting the settlement would have had power to appoint new trustees thereof;

"(ii) the persons named in the deed of declaration as the trustees of the settlement; and

"(iii) any trustee who is discharged as aforesaid or retires.

"(3) A statement contained in any such deed of declaration as mentioned in this section to the effect that the person named in the principal vesting instrument as the person for the time being entitled to appoint new trustees of the settlement is unable or unwilling to act, or that a trustee has remained out of the United Kingdom for more than twelve months, or refuses or is unfit to act, or is incapable of acting, shall in favour of a purchaser of a legal estate, be conclusive evidence of the matter stated."

Exchanges.

5. The following paragraph shall be substituted for paragraph (iii) of section three of the Act of 1882:—

"(iii) May make an exchange of the settled land, or any part thereof, or of any easement, right, or privilege of any kind, whether or not newly created, over or in relation to the settled land, or any part thereof, for other land, or for any easement, right or privilege of any kind, whether or not newly created, over or in relation to other land, including an exchange in consideration of money paid for equality of exchange."

Sales.

6.—(1) At the end of the first paragraph of subsection (1) of section forty-three of the principal Act, the words "or an adequate part thereof" shall be inserted.

(2) The following proviso shall be inserted at the end of the said subsection (1):—

"Provided that, unless the part of the terminable rent attributable to interest varies according to the amount of principal repaid, the trustees of the settlement shall, during the subsistence of the rent, accumulate the income of the said capital money in the way of compound interest by investing it and the resulting income thereof in securities authorised for the investment of capital money and add the accumulations to capital."

Dedication of roads.

7. The following paragraph shall be inserted at the end of paragraph (*b*) of subsection (2) of section sixty of the principal Act:—

"(*c*) to consent to any such road as is mentioned in section thirty-six of the Highway Act, 1862, being declared a public highway."

4th Sch. —*cont.*

8.—(1) The following provision shall be inserted at the end of subsection (7) of section forty-five of the principal Act:—

Compromises and licences.

"And in any case where section seventy-eight aforesaid has effect as amended and re-enacted by Part II of the Mines (Working Facilities and Support) Act, 1923, a tenant for life may make any agreement authorised by section eighty-five A of the Railway Clauses Consolidation Act, 1845, as enacted in the said Part II."

(2) The following subsection shall be inserted at the end of section forty-five of the principal Act:—

"(10) Where land is or has been disposed of subject to any covenant requiring the licence, consent, or approval of the covenantee or his successors in title as to—

"(*a*) the user of the land in any manner; or

"(*b*) the erection construction or alteration of or addition to buildings or works of any description on the land; or

"(*c*) the plans or elevations of any proposed buildings or other works on the land; or

"(*d*) any other act, matter, or thing relating to the land, or any buildings or works thereon; or

"(*e*) any assignment, underletting or parting with the possession of all or any part of the property comprised in any lease affecting the settled land;

and the covenant enures for the benefit of settled land (including, where the disposition is a lease, the reversion expectant on the determination thereof) the licence, consent or approval may be given by the tenant for life of the settled land affected."

Bankruptcy.

9. The following paragraph shall be inserted at the end of the Fifth Schedule to the principal Act:—

"14. The legal estate in settled land shall not vest in the trustee in bankruptcy of an estate owner unless and until the estate owner becomes absolutely and beneficially entitled to the settled land free from all limitations, powers, and charges taking effect under the settlement."

Purchasers of life interests.

10. Sub-paragraph (3) of paragraph 10 of the Fifth Schedule to the principal Act (relating to the acquisition of the beneficial interest of a tenant for life) shall take effect subject to the following provisions:—

"Provided that—

(*a*) where the conveyance or dealing is effected after the commencement of this Act, the purchaser shall not be entitled to the possession of the documents of title relating to the settled land, but shall have the same

4TH SCH. —*cont.*

rights with respect thereto as if the tenant for life had given to him a statutory acknowledgment of his right to production and delivery of copies thereof, and a statutory undertaking for the safe custody thereof; and

"(*b*) the tenant for life shall not deliver any such documents to a purchaser of his beneficial interest who is not also a purchaser of the whole of the settled land to which such documents relate."

Small dwellings.

11. Section eighteen of the Act of 1890 shall have effect as if the words "who earn their livelihood by wages or salaries" were omitted.

PART II.

PROVISIONS FACILITATING CONSOLIDATION OF THE LAW RELATING TO SETTLED LAND.

Authorised method of settling.

1. The provisions in paragraph 1 of the Fifth Schedule to the principal Act relating to the method of settling land inter vivos shall be read as follows—

"(1) Every settlement of a legal estate in land inter vivos shall (save as in this Act otherwise provided) be effected by two deeds, namely, a vesting deed and a trust instrument, and if made in any other way shall not operate to transfer or create a legal estate.

"(2) By the vesting deed the land shall be conveyed to the tenant for life or statutory owner (and if more than one as joint tenants) for the legal estate the subject of the intended settlement:

"Provided that, where such legal estate is already vested in the tenant for life or statutory owner, it shall be sufficient, without any other conveyance, if the vesting deed declares that the land is vested in him for that estate.

"(3) The trust instrument shall—

"(*a*) declare the trusts affecting the settled land;

"(*b*) appoint or constitute trustees of the settlement;

"(*c*) contain the power (if any) to appoint new trustees of the settlement;

"(*d*) set out, either expressly or by reference, any powers intended to be conferred by the settlement in extension of those conferred by this Act; and

(*e*) bear any ad valorem stamp duty which may be payable (whether by virtue of the vesting deed or otherwise) in respect of the settlement."

4th Sch. —*cont.*

Contents of vesting deeds.

2. The provisions in paragraph 2 of the same Schedule relating to the contents of vesting deeds shall be read as follows:—

"(1) Every vesting deed for giving effect to a settlement or for conveying settled land to a tenant for life or statutory owner during the subsistence of the settlement (in this Act referred to as a principal vesting deed) shall contain the following statements and particulars, namely:—

"(*a*) A description, either specific or general, of the settled land:

"(*b*) A statement that the settled land is vested in the person or persons to whom it is conveyed or in whom it is declared to be vested upon the trusts from time to time affecting the settled land:

"(*c*) The names of the persons who are the trustees of the settlement:

"(*d*) Any additional or larger powers conferred by the trust instrument relating to the settled land which by virtue of this Act operate and are exercisable as if conferred by this Act on a tenant for life:

"(*e*) The name of any person for the time being entitled under the trust instrument to appoint new trustees of the settlement.

"(2) The statements or particulars required by this paragraph may be incorporated by reference to an existing vesting instrument, and where there is a settlement subsisting at the commencement of this Act, by reference to such settlement, and to any instrument whereby land has been conveyed to the uses or upon the trusts of such settlement, but not (save as last aforesaid) by reference to a trust instrument nor by reference to a disentailing deed.

"(3) A principal vesting deed shall not be invalidated by reason only of any error in any of the statements or particulars by this Act required to be contained therein."

Procedure on change of ownership.

3. The provisions in paragraph 3 of the same Schedule relating to procedure on change of ownership shall be read as follows:—

"(1) If, on the death of a tenant for life or statutory owner, or of the survivor of two or more tenants for life or statutory owners, in whom the settled land was vested, the land remains settled land, his personal representatives shall hold the settled land on trust, if and when required so to do, to convey the same to the person who, under the trust instrument, or by virtue of this Act, becomes the tenant for life or statutory owner and, if more than one, as joint tenants.

"(2) If a person by reason of attaining full age becomes a tenant for life for the purposes of the Settled Land Acts of

4TH SCH. —*cont.*

settled land, he shall be entitled to require the trustees of the settlement, personal representatives, or other persons in whom the settled land is vested, to convey the land to him.

"(3) If a person who, when of full age, will together with another person or other persons constitute the tenant for life for the purposes of the Settled Land Acts of settled land attains that age, he shall be entitled to require the tenant for life, trustees of the settlement, personal representatives or other persons in whom the settled land is vested to convey the land to him and the other person or persons who together with him constitute the tenant for life as joint tenants.

"(4) If by reason of forfeiture, surrender, or otherwise the estate owner of any settled land ceases to have the statutory powers of a tenant for life, and the land remains settled land, he shall be bound forthwith to convey the settled land to the person who under the trust instrument, or by virtue of the Settled Land Acts, becomes the tenant for life or statutory owner and, if more than one, as joint tenants.

"(5) If any person of full age becomes absolutely entitled to the settled land (whether beneficially, or as personal representative, or as trustee for sale, or otherwise) free from all limitations, powers, and charges taking effect under the settlement, he shall be entitled to require the trustees of the settlement, personal representatives, or other persons in whom the settled land is vested, to convey the land to him, and if more persons than one being of full age become so entitled to the settled land they shall be entitled to require such persons as aforesaid to convey the land to them as joint tenants."

Mode and costs of conveyance.

4. The provisions in paragraphs 3 and 4 of the same Schedule relating to conveyances for giving effect to settlements by will and on change of ownership shall be read as follows :—

"(1) A conveyance by personal representatives under the aforesaid provisions may be made by an assent in writing signed by them which shall operate as a conveyance.

"(2) Every conveyance under the aforesaid provisions shall be made at the cost of the trust estate.

"(3) The obligations to convey settled land imposed by the aforesaid provisions are subject and without prejudice—

"(*a*) where the settlement is created by a will, to the rights and powers of the personal representatives for purposes of administration; and

"(*b*) in any case to the person on whom the obligation is imposed being satisfied that provision has been or will be made for the payment of any unpaid

4th Sch. —*cont.*

death duties in respect of the land or any interest therein for which he is accountable, and any interest and costs in respect of such duties, or that he is otherwise effectually indemnified against such duties, interest and costs.

" (4) Where the land is or remains settled land a conveyance under either of the aforesaid provisions shall—

" (*a*) if by deed, be a principal vesting deed; and

" (*b*) if by an assent, be a vesting assent, which shall contain the like statements and particulars as are required by this Act in the case of a principal vesting deed.

" (5) Nothing contained in the aforesaid provisions affects the right of personal representatives to transfer or create such legal estates to take effect in priority to a conveyance under those provisions as may be required for giving effect to the obligations imposed on them by statute.

" (6) A conveyance under the aforesaid provisions, if made by deed, may contain a reservation to the person conveying of a term of years absolute in the land conveyed upon trusts for indemnifying him against any unpaid death duties in respect of the land conveyed or any interest therein, and any interest and costs in respect of such duties.

" (7) Nothing contained in the aforesaid provisions affects any right which a person entitled to an equitable charge for securing money actually raised, and affecting the whole estate the subject of the settlement, may have to require effect to be given thereto by a legal mortgage, before the execution of a conveyance under either of those sections."

Trust instruments.

5. The provisions in paragraphs 4, 8 and 9 of the same Schedule relating to trust instruments shall be read as follows :—

" (1) Each of the following settlements or instruments shall for the purposes of this Act be deemed to be a trust instrument, and any reference to a trust instrument contained in this Act shall apply thereto, namely :—

" (i) An instrument executed, or, in case of a will, coming into operation, after the commencement of this Act which by virtue of this Act is deemed to be a settlement;

" (ii) A settlement which by virtue of this Act is deemed to have been made by any person after the commencement of this Act;

" (iii) An instrument inter vivos intended to create a settlement of a legal estate in land which is executed after the commencement of this Act, and does not

4TH SCH. —*cont.*

comply with the requirements of this Act with respect to the method of effecting such a settlement; and

"(iv) A settlement made after the commencement of this Act (including a settlement by the will of a person who dies after such commencement) of any of the following interests—

"(*a*) an equitable interest in land which is capable, when in possession, of subsisting at law; or

"(*b*) an entailed interest; or

"(*c*) a base or determinable fee or any corresponding interest in leasehold land;

but only if and when the interest settled takes effect free from all equitable interests and powers under every prior settlement (if any).

"(2) As soon as practicable after a settlement or instrument which, for the purposes of this Act, is deemed to be a trust instrument takes effect as such, the trustees of the settlement may, and on the request of the tenant for life or statutory owner shall, execute a principal vesting deed (containing the proper statements and particulars) declaring that the legal estate in the settled land shall vest or is vested in the person or persons therein named (being the tenant for life or statutory owner, and including themselves if they are the statutory owners), and such deed shall (unless the legal estate is already so vested) operate to convey or vest the legal estate in the settled land to or in the person or persons aforesaid and, if more than one, as joint tenants.

"(3) If there are no trustees of the settlement, then (in default of a person able and willing to appoint such trustees) an application shall be made to the court by the tenant for life or statutory owner, or may be made by any other person interested, for the appointment of such trustees.

"(4) The provisions of the last preceding section with reference to a conveyance shall apply, so far as the same are applicable, to a principal vesting deed under this section."

Agreements for a settlement.

6. The following sub-paragraph shall be substituted for sub-paragraph (2) of paragraph 1 of the same Schedule to the principal Act:—

"(2) A contract made or other liability created or arising after the commencement of this Act for the settlement of land—

"(i) by or on the part of an estate owner; or

"(ii) by a person entitled to—

"(*a*) an equitable interest which is capable when in possession of subsisting at law; or

4TH SCH. —*cont.*

"(*b*) an entailed interest; or

"(*c*) a base or determinable fee or a corresponding interest in leasehold land;

shall, but in cases under paragraph (ii) only if and when the interest of the person entitled takes effect free from all equitable interests and powers under every prior settlement, if any, be deemed an estate contract within the meaning of the Land Charges Acts, and may be registered as a land charge accordingly, and effect shall be given thereto by a vesting deed and a trust instrument in accordance with this Act."

Vesting orders.

7. The provisions in paragraphs 7 and 9 of the same Schedule to the principal Act as to vesting orders shall be read as follows:—

"(1) If—

"(*a*) any person who is bound to execute a conveyance vesting deed or vesting assent, or in whom settled land is wrongly vested refuses or neglects to execute the requisite conveyance or vesting deed or vesting assent within one month after demand in writing; or

"(*b*) such person is outside the United Kingdom, or cannot be found, or it is not known whether he is alive or dead; or

"(*c*) for any reason the court is satisfied that the conveyance or vesting deed or vesting assent cannot be executed, or cannot be executed without undue delay or expense;

the court may, on the application of any person interested, make an order vesting the settled land in the tenant for life or statutory owner or person (if any) of full age absolutely entitled (whether beneficially or as personal representative or trustee for sale or otherwise), and (if the land remains settled land) the provisions of this Act relating to a principal vesting deed or a subsidiary vesting deed (as the case may require) shall apply to any order so made which shall contain the like statements and particulars.

"(2) No stamp duty shall be payable in respect of a vesting order made in place of a vesting or other assent."

Restrictions on dispositions before vesting instrument is made.

8. The restrictions imposed by the same Schedule to the principal Act on dispositions until a vesting instrument is made shall not affect a personal representative and shall not apply to dispositions which a tenant for life has power to make in right of his equitable interests or powers under a trust instrument.

4TH SCH. —*cont.*

Enforcement of equitable interests.

9. The following provisions shall be substituted for the provisions of Part II. of the First Schedule to the principal Act relating to enforcement of equitable interests and powers as respects settled land :—

"(1) All equitable interests and powers in or over settled land (whether created before or after the date of any vesting instrument affecting the legal estate) shall be enforceable against the estate owner in whom the settled land is vested (but in the case of personal representatives without prejudice to their rights and powers for purposes of administration) in manner following (that is to say) :—

"(i) The estate owner shall stand possessed of the settled land and the income thereof upon such trusts and subject to such powers and provisions as may be requisite for giving effect to the equitable interests and powers affecting the settled land or the income thereof of which he has notice according to their respective priorities:

"(ii) Where any person of full age becomes entitled to require a legal estate in the settled land to be vested in him in priority to the settlement, by reason of a right of reverter, statutory or otherwise, or an equitable right of entry taking effect, or on the ground that his interest ought no longer to be capable of being over-reached under the powers of the Settled Land Acts, the estate owner shall be bound, if so requested in writing, to transfer or create such legal estate as may be required for giving legal effect to the rights of the person so entitled:

"(iii) Where—

"(*a*) any principal sum is required to be raised on the security of the settled land, by virtue of any trust, or by reason of the exercise of an equitable power affecting the settled land, or by any person or persons who under the settlement is or are entitled or together entitled to or has or have a general power of appointment over the settled land, whether subject to any equitable charges or powers of charging subsisting under the settlement or not; or

"(*b*) the settled land is subject to any equitable charge for securing money actually raised and affecting the whole estate the subject of the settlement;

the estate owner shall be bound, if so requested in writing, to create such legal estate or charge by way of legal mortgage as may be required for

raising the money or giving legal effect to the equitable charge: 4th Sch. —*cont.*

"Provided that, so long as the settlement remains subsisting, any legal estate or change by way of legal mortgage so created shall take effect and shall be expressed to take effect subject to any equitable charges or powers of charging subsisting under the settlement which have priority to the interests or powers of the person or persons by or on behalf of whom the money is required to be raised, or legal effect is required to be given to the equitable charge unless the persons entitled to such prior charges or powers consent in writing to the same being postponed, but it shall not be necessary for such consent to be expressed in the instrument creating such legal estate or charge by way of legal mortgage.

"(2) Where a mortgage or charge is expressed to be made by an estate owner pursuant to this paragraph, then, in favour of the mortgagee or chargee and persons deriving title under him, the same shall take effect in priority to all the trusts of the settlement and all equitable interests and powers subsisting or to arise under the settlement, except those to which it is expressly made subject, and shall so take effect, whether the mortgagee or chargee has notice of any such trusts, interests, or powers, or not; and the mortgagee or chargee shall not be concerned to see that a case had arisen to authorise the mortgage or charge, or that no more money than was wanted was raised.

"(3) Nothing contained in sub-paragraph (1) (iii) of this paragraph shall affect the power conferred by the Settled Land Acts on a tenant for life of raising money by mortgage, or of directing capital money to be applied in discharge of incumbrances.

"(4) Effect may be given by means of a legal mortgage, to an agreement for a mortgage, or a charge or lien, whether or not arising by operation of law, if the agreement charge or lien ought to have priority over the settlement.

"(5) Save as hereinbefore expressly provided, no legal estate shall, so long as the settlement is subsisting, be transferred or created by the estate owner for giving effect to any equitable interest or power under the settlement.

"(6) If a question arises or a doubt is entertained whether any and what legal estate ought to be transferred or created pursuant to this paragraph an application may be made to the court for directions as hereinafter provided.

"(7) If an estate owner refuses or neglects for one month after demand in writing to transfer or create any

4TH SCH. —*cont.*

such legal estate, or if by reason of his being out of the United Kingdom or being unable to be found, or by reason of the dissolution of a corporation, or for any other reason, the court is satisfied that the transaction cannot otherwise be effected, or cannot be effected without undue delay or expense, the court may, on the application of any person interested, make a vesting order transferring or creating the requisite legal estate.

"(8) This paragraph does not affect a purchaser of a legal estate taking free from any equitable interest or power."

Discharge on termination of settlement.

10. The provisions in paragraph 3 of the Fifth Schedule to the principal Act relating to discharges on the termination of a settlement shall be read as follows :—

"(1) Where the estate owner of any settled land holds the same free from all equitable interests and powers under a trust instrument, the persons who in the last or only principal vesting instrument or the last or only endorsement on or annex thereto are declared to be the trustees of the settlement or the survivors of them shall be bound (save as hereinafter mentioned) to execute (at the cost of the trust estate) a deed declaring that they are discharged from the trust so far as regards that land :

"Provided that if the trustees have notice of any derivative settlement, trust for sale, or equitable charge, affecting such land, they shall not execute a deed of discharge until—

"(*a*) in the case of a derivative settlement, or trust for sale, a vesting instrument or a conveyance has been executed or made for giving effect thereto; and

"(*b*) in the case of an equitable charge, they are satisfied that it is or will be secured by a legal mortgage, or is protected by registration as a land charge, or by deposit of the documents of title, or that the owner thereof consents to such execution.

"Where the land is affected by a derivative settlement or trust for sale, the deed of discharge shall contain a statement that the land is settled land by virtue of such vesting instrument as aforesaid, and the trust instrument therein referred to, or is held on trust for sale by virtue of such conveyance as aforesaid, as the case may require.

"(2) If, in the circumstances mentioned in subparagraph (1) of this paragraph and when the conditions therein mentioned have been complied with, the trustees of a settlement, on being requested to execute a deed of discharge—

"(*a*) by the estate owner ; or

"(*b*) by a person interested under, or by the trustees of, a derivative settlement ; or

"(*c*) by the trustees of a conveyance on trust for sale ;

4th Sch. —*cont.*

refuse to do so, or if for any reason the discharge cannot be effected without undue delay or expense, the estate owner, person interested, or trustees may apply to the court for an order discharging the first-mentioned trustees, as respects the whole or any part of the settled land and the court may make such order as it may think fit.

"(3) Where a deed or order of discharge contains no statement to the contrary, a purchaser of a legal estate in the land to which such deed or order relates shall be entitled to assume that such land has ceased to be settled land, and is not subject to any trust for sale."

Absolute owners having the powers of a tenant for life.

11. The following subsection shall be substituted for subsection (2) of section fifty-three of the principal Act:—

"(2)—(*a*) Where a person of full age is beneficially entitled in possession to a legal estate subject to any equitable interests or powers, then for the purpose of overreaching such interests or powers, he may, notwithstanding any stipulation to the contrary, by deed (which shall have effect as a principal vesting deed within the meaning of this Act) declare that the legal estate is vested in him on trust to give effect to all equitable interests and powers affecting the same, and that deed shall be executed by two or more individuals (approved or appointed by the court) or a trust corporation who shall be stated to be the trustees of the settlement for the purposes of the Settled Land Acts.

"Thereupon, so long as any of the equitable interests and powers are subsisting, the following provisions shall have effect:—

"(i) The person so entitled as aforesaid, and each of his successors in title being an estate owner, shall have the powers of a tenant for life and the land shall be deemed settled land;

"(ii) The instrument, if any, under which his estate arises or is acquired, and the instrument, if any, under which the equitable interests or powers are subsisting or capable of taking effect shall be deemed to be the trust instrument:

Provided that where there is no such instrument as last aforesaid then a deed (which shall take effect as a trust instrument) shall be executed contemporaneously with the vesting deed, and shall declare the trusts affecting the land;

"(iii) The persons stated in the principal vesting deed to be the trustees of the settlement for the purposes of the Settled Land Acts shall also be the trustees for those purposes of the trust instrument; and

4TH SCH. —*cont.*

"(iv) Capital money arising on any disposition of the land shall be paid to or by the direction of the trustees of the settlement or into court, and shall be applicable towards discharging or providing for payment in due order of any principal money payable in respect of such interests or charges as are overreached by such disposition, and until so applied shall be invested or applied as capital money under the trust instrument; and the income thereof shall be applied as the income of such capital money, and be liable for keeping down in due order any annual or periodical sum which may be overreached by the disposition."

"(*b*) The following equitable interests and powers are excepted from the operation of paragraph (*a*) of this subsection, namely—

"(i) An equitable interest protected by a deposit of documents relating to the legal estate affected;

"(ii) The benefit of a covenant or agreement restrictive of the user of land;

"(iii) An easement, liberty or privilege over or affecting land and being merely an equitable interest;

"(iv) The benefit of a contract to convey or create a legal estate (including a contract conferring either expressly or by statutory implication a valid option of purchase, a right of pre-emption, or any other like right);

"(v) Any equitable interest protected by registration under the Land Charges Acts, other than—

"(*a*) an annuity within the meaning of the Judgments Act, 1855;

"(*b*) a limited owner's charge or a general equitable charge within the meaning of the Land Charges Acts.

"(*c*) Subject to the powers conferred by the Settled Land Acts on a tenant for life nothing contained in this subsection shall deprive an equitable chargee of any of his rights or of his remedies for enforcing those rights."

Married women.

12.—(1) The following section shall be substituted for section sixty-one of the Act of 1882:—

"61.—(1) The foregoing provisions of this Act shall apply to a married woman of full age, whether or not she is entitled to her estate or interest for her separate use or as her separate property, and she, without her husband, may exercise the powers of a tenant for life under this Act.

"(2) A restraint on anticipation in the settlement shall not prevent the exercise by her of any power under this Act." 4th Sch. —*cont.*

13. The following section shall be substituted for section fifty-nine of the Act of 1882 as amended :— Infants.

"59.—(1) Where an infant is beneficially entitled in possession to land for an estate in fee simple or for a term of years absolute or would if of full age be a tenant for life of or have the powers of a tenant for life over settled land, then, during the minority of such infant—

"(*a*) if the settled land is vested in a personal representative, the personal representative, until a principal vesting instrument has been executed pursuant to the provisions of this Act; and

"(*b*) in every other case the trustees of the settlement;

shall have, in reference to the settled land and capital money, all the powers conferred by this Act, and the settlement on a tenant for life, and on the trustees of the settlement.

"(2) If the settled land is vested in a personal representative, then, if and when during the minority the infant, if of full age, would have been entitled to have the legal estate in the settled land conveyed to or otherwise vested in him pursuant to the statutory provisions, a principal vesting instrument shall if the trustees of the settlement so require, be executed, at the cost of the trust estate, for vesting the legal estate in themselves, and in the meantime the personal representatives shall, during the minority, give effect to the directions of the trustees of the settlement and shall not be concerned with the propriety of any conveyance directed to be made by those trustees if the same appears to be a proper conveyance under the powers conferred by this Act, or by the settlement, and the capital money (if any) arising under the conveyance is paid to or by the direction of the trustees of the settlement or into court; but a purchaser dealing with the personal representative and paying the capital money (if any) to him shall not be concerned to see that the money is paid to trustees of the settlement or into court, or inquire whether the personal representative is liable to give effect to any such directions, or whether any such directions have been given.

"(3) Subsection (2) of this section shall apply whether the infant becomes entitled before or after the commencement of this Act, and shall have effect during successive minorities until a person of full age becomes entitled to require the settled land to be vested in him.

4TH SCH. —*cont.*

"(4) This section shall not apply where an infant is beneficially entitled in possession to land for an estate in fee simple or for a term of years absolute jointly with a person of full age (for which case provision is otherwise made by statute), but shall apply to two or more infants entitled as aforesaid jointly, until one of them attains full age.

"(5) This section shall not apply where an infant would, if of full age, constitute the tenant for life or have the powers of a tenant for life together with another person of full age, but it shall apply to two or more infants who would if all of them were of full age, together constitute the tenant for life or have the powers of a tenant for life, until one of them attains full age."

"(6) Nothing in this section shall affect prejudicially any beneficial interest of an infant."

Conveyances of legal estates to infants.

14. The provisions of the Sixth Schedule to the principal Act relating to infants as respects settled land shall be read as follows :—

"(1) A conveyance of a legal estate in land to an infant alone, or to two or more persons jointly both, or all of whom are infants for his or their own benefit shall operate only as an agreement for valuable consideration to execute a settlement by means of a principal vesting deed and a trust instrument in favour of the infant or infants, and in the meantime to hold the land in trust for the infant or infants.

"(2) Nothing in the Settled Land Acts shall prevent an equitable interest in settled land being vested in or transferred to an infant.

"(3) Nothing in the Settled Land Acts affects the powers conferred by the Infant Settlements Act, 1855, provided that a legal estate in land is not vested in an infant."

Lunatics.

15. The following subsection shall be inserted at the end of section sixty-two of the Act of 1882 :—

"(2) Orders may be made under this section—

"(*a*) either generally or in a particular instance;

"(*b*) without requiring the estate of the lunatic or defective to be administered in lunacy;

"(*c*) by appointing a receiver to act solely in relation to the settled land or in relation to a particular settlement."

Charitable and public trusts.

16. The following section shall be substituted for section twenty-six of the principal Act :—

"26.—(1) For the purposes of this section, all land vested or to be vested in trustees on or for charitable,

4TH SCH. —*cont.*

ecclesiastical, or public trusts or purposes shall be deemed to be settled land, and the trustees shall, without constituting them statutory owners, in reference to the land, have all the powers which are by the Settled Land Acts conferred on a tenant for life and on the trustees of the settlement.

In connexion only with the exercise of those powers, and not so as to impose any obligation in respect of or to affect—

(*a*) the mode of creation or the administration of such trusts; or

(*b*) the appointment or number of trustees of such trusts;

the statute or other instrument creating the trust or under which it is administered shall be deemed the settlement, and the trustees shall be deemed the trustees of the settlement, and, save where the trust is created by a will coming into operation after the commencement of this Act, a separate instrument shall not be deemed necessary for giving effect to the settlement.

"Any conveyance of land held on charitable trusts shall state that the land is held on such trusts, and where a purchaser has notice that the land is held on charitable, ecclesiastical or public trusts, he shall be bound to see that any such consents or orders requisite for authorising the transaction have been obtained.

"(2) The said powers shall be exercisable subject to such consents or orders (if any) being obtained as would, if this Act had not been passed, have been requisite if the transaction were being effected under an express power conferred by the instrument creating the trust; and, where the land is vested in the official trustee of charity lands or in any other persons having no powers of management, the said powers shall be exercisable by the managing trustees or committee of management, and the official trustee or other persons aforesaid shall not be liable for giving effect to directions given by the managing trustees or committee of management:

Provided that where—

(*a*) a disposition or dealing is to be effected for a nominal price or rent, or for less than the best price or rent that can be reasonably obtained or gratuitously; or

(*b*) any interest in land is to be acquired;

the like consent or order (if any) shall be required in reference to the disposition, dealing or acquisition, as would have been requisite if the intended transaction were a sale.

4TH SCH. —*cont.*

"(3) Nothing in this section shall affect the jurisdiction of the court, Charity Commissioners, Board of Education, or other competent authority, in regard to the administration of charitable, ecclesiastical, or public trusts.

"(4) Every assurance of land or of personal estate, within the meaning of section four of the Mortmain and Charitable Uses Act, 1888, or if the charitable uses are declared by a separate instrument, then that instrument shall, in place of the requirements respecting attestation and enrolment prescribed by subsections (6) and (9) of that section, be sent to the offices of the Charity Commissioners within six months after the execution thereof or within such extended period as the said Commissioners may, either before or after the expiration of the six months, in any particular case allow, for the purpose of being recorded in the books of the said Commissioners.

Where the original cannot be produced, an attested or office copy may be sent instead of the original.

This subsection does not apply to registered dispositions of registered land, or to assurances or instruments required by section one hundred and seventeen of the Education Act, 1921, to be sent to the Board of Education, and only applies to instruments executed after the commencement of this Act.

"(5) Where any trustees or the majority of any set of trustees have power to transfer or create any legal estate, the same shall be transferred or created by them in the names and on behalf of the persons (including the official trustee of charity lands) in whom the legal estate is vested.

"(6) This section applies (save as otherwise provided) whether the trust was or is created before or after the commencement of this Act, but does not apply to land to which the Universities and College Estates Acts, 1858 to 1898 (as amended) apply."

Undivided shares.

17. The provisions of the principal Act (to take effect in regard to the future) as to undivided shares so far as they relate to settled land shall be read as follows :—

"(1) If and when, after the commencement of this Act, settled land is held in trust for persons entitled in possession under a trust instrument in undivided shares, the trustees of the settlement, if the settled land is not already vested in them, may require the estate owner in whom the settled land is vested (but in the case of a personal representative subject to his rights and powers for purposes of administration), at the cost of the trust estate, to convey the land to them, or assent to the land vesting in them as

joint tenants, and in the meantime the land shall be held on the same trusts as would have been applicable thereto if it had been so conveyed to or vested in the trustees. 4th Sch. —*cont.*

"(2) If and when the settled land so held in trust in undivided shares is or becomes vested in the trustees of the settlement, the land shall be held by them (subject to any incumbrances affecting the settled land which are secured by a legal mortgage, but freed from any incumbrances affecting the undivided shares or not secured as aforesaid, and from any interests, powers and charges subsisting under the trust instrument, which have priority to the trust for the persons entitled to the undivided shares) upon the statutory trusts.

"(3) If the estate owner refuses or neglects for one month after demand in writing to convey the settled land so held in trust in undivided shares in manner aforesaid, or if by reason of his being out of the United Kingdom or being unable to be found, or by reason of the dissolution of a corporation, or for any other reason, the court is satisfied that the conveyance cannot otherwise be made, or cannot be made without undue delay or expense, the court may, on the application of the trustees of the settlement, make an order vesting the settled land in them on the statutory trusts.

"(4) An undivided share in land shall not be capable of being created except under a trust instrument or as otherwise provided by statute, and shall then only take effect behind a trust for sale.

"(5) Nothing in this section shall affect the priority inter se of any incumbrances whether affecting the entirety of the land or an undivided share.

"(6) For the purposes of this section land held upon the statutory trusts shall be held upon the trusts and subject to the provisions following, namely, upon trust to sell the same, with power to postpone the sale of the whole or any part thereof, and to stand possessed of the net proceeds of sale, after payment of costs, and of the net rents and profits until sale, after payment of rates, taxes, costs of insurance, repairs, and other outgoings, upon such trusts and subject to such powers and provisions as may be requisite for giving effect to the rights of the persons interested in the settled land.

"(7) This section binds the Crown."

Timber and fixtures.

18. The following section shall be substituted for section thirteen of the Law of Property Amendment Act, 1859:—

"13. Where on a sale the consideration attributable to any timber or fixtures is by mistake paid to a tenant for life

4TH SCH. —*cont.*

or other person not entitled to receive the same, then, if that person or the purchaser or the persons deriving title under either of them subsequently pay the aforesaid consideration, with such interest, if any, thereon as the court may direct, to the trustees of the settlement or other persons entitled thereto or into court, the court may, on the application of the purchaser or the persons deriving title under him, declare that the disposition is to take effect as if the whole of the consideration had at the date thereof been duly paid to the trustees of the settlement or other persons entitled to receive the same.

"The person to whom the consideration is paid by mistake, and his estate and effects, shall remain liable to make good any loss attributable to the mistake."

Mansion.

19. The words "and may accordingly be disposed of in like manner as any other part of the settled land" shall be inserted at the end of section ten of the Settled Land Act, 1890.

Heirlooms.

20.—(1) The following subsection shall be substituted for subsection (1) of section thirty-seven of the Act of 1882:—

"(1) Where personal chattels are settled so as to devolve with settled land, or to devolve therewith as nearly as may be in accordance with the law or practice in force at the date of the settlement, or are settled together with land, or upon trusts declared by reference to the trusts affecting land, a tenant for life of the land may sell the chattels or any of them."

(2) Any reference in any enactment to personal chattels settled as heirlooms shall extend to any chattels to which subsection (1) of section thirty-seven of the Act of 1882, as amended, applies.

Consolidation of securities, &c.

21.—(1) Subsection (1) of section fifty-nine of the principal Act shall be read as authorising the consolidation of securities.

(2) The statutory restrictions on the leasing powers of a tenant for life shall not apply in relation to the creation of a mortgage term.

Completion of transactions.

22.—(1) On a sale, exchange, lease, mortgage, charge, or other disposition, the tenant for life may, as regards land sold, given in exchange, leased, mortgaged, charged, or otherwise disposed of, or intended so to be, or as regards easements or other rights or privileges sold, given in exchange, leased, mortgaged, or otherwise disposed of, or intended so to be, effect the transaction by deed to the extent of the estate or interest vested or declared to be vested in him by the last or only vesting instrument affecting the settled land or for any less estate or interest, in the manner requisite for giving effect to the sale, exchange, lease, mortgage, charge, or other disposition, but so that a

4th Sch. —*cont.*

mortgage shall be effected by the creation of a term of years absolute in the settled land, or by charge by way of legal mortgage, and not otherwise.

(2) Such a deed, to the extent and in the manner to and in which it is expressed or intended to operate and can operate under the Settled Land Acts, is effectual to pass the land conveyed, or the easements, rights, privileges or other interests created, discharged from all the limitations, powers, and provisions of the settlement, and from all estates, interests, and charges subsisting or to arise thereunder, but subject to and with the exception of—

(i) all legal estates and charges by way of legal mortgage which have been conveyed or created for securing money actually raised at the date of the deed; and

(ii) all leases and grants at fee-farm rents or otherwise, and all grants of easements, rights of common, or other rights or privileges which before the date of the deed—

(*a*) are granted or made for value in money or money's worth, or agreed so to be, by the tenant for life or statutory owner, or by any of his predecessors in title, or any trustees for them, under the settlement, or under any statutory power, or are otherwise binding on the successors in title of the tenant for life or statutory owner; and

(*b*) are protected by registration under the Land Charges Acts, if capable of registration thereunder.

(3) Notwithstanding registration under the Land Charges Acts of—

(*a*) an annuity within the meaning of the Judgments Act, 1855;

(*b*) a limited owner's charge or a general equitable charge within the meaning of the Land Charges Acts;

a disposition under the Settled Land Acts operates to overreach such annuity or charge which shall, according to its priority, take effect as if limited by the settlement.

(4) Where a lease is by the Settled Land Acts authorised to be made by writing under hand only, such writing shall have the same operation under this section as if it had been a deed.

(5) The foregoing provisions of this paragraph shall have effect in substitution for section twenty of the Act of 1882.

Application of money held by trustees.

23.—(1) The words "This paragraph shall apply to costs "and expenses incurred in opposing any such proposed scheme "as aforesaid whether or not a scheme is made;" shall be inserted at the end of subsection (1) (iii) of section sixty-four of the principal Act.

4TH SCH. —*cont.*

(2) Where—

(*a*) under any instrument coming into operation either before or after the commencement of the principal Act money is in the hands of trustees, and is liable to be laid out in the purchase of land to be made subject to the trusts declared by that instrument; or

(*b*) under any instrument coming into operation after the commencement of the principal Act money or securities or the proceeds of sale of any property is or are held by trustees on trusts creating entailed interests therein;

then, in addition to such powers of dealing therewith as the trustees have independently of the Settled Land Acts, they may, at the option of the tenant for life, invest or apply the money, securities or proceeds as if they were capital money arising under the Settled Land Acts.

(3) The foregoing provisions of this paragraph shall have effect in substitution for section thirty-three of the Act of 1882.

Substitution of securities; payment for improvements.

24.—(1) Subsections (4) to (7) of section twenty-four of the Act of 1882 shall have effect whether the land is acquired under the statutory powers by purchase or in exchange or otherwise.

(2) The words "and notwithstanding that no capital money "is immediately available for the purpose" shall be inserted at the end of section fifteen of the Act of 1890.

Powers not assignable.

25.—(1) The powers under the Settled Land Acts of a tenant for life are not capable of assignment or release, and do not pass to a person as being, by operation of law or otherwise, an assignee of a tenant for life, and remain exercisable by the tenant for life after and notwithstanding any assignment, by operation of law or otherwise, of his estate or interest under the settlement.

This subsection applies notwithstanding that the estate or interest of the tenant for life under the settlement was not in possession when the assignment was made or took effect by operation of law.

(2) A contract by a tenant for life not to exercise his powers or any of them under the said Acts is void.

(3) Where an assignment for value of the estate or interest of the tenant for life was made before the commencement of the principal Act, this section shall operate without prejudice to the rights of the assignee, and in that case the assignee's rights shall not be affected without his consent, except that—

(*a*) unless the assignee is actually in possession of the settled land or the part thereof affected, his consent shall not be requisite for the making of leases thereof by the tenant for life provided the leases

4th Sch. —*cont.*

are made at the best rent that can reasonably be obtained, without fine, and in other respects are in conformity with the Settled Land Acts; and

(*b*) the consent of the assignee shall not be required to an investment of capital money for the time being affected by the assignment in securities authorised by statute for the investment of trust money.

(4) Where such an assignment for value is made or comes into operation after the commencement of the principal Act, the consent of the assignee shall not be requisite for the exercise by the tenant for life of any of the powers conferred by the Settled Land Acts:

Provided that—

(*a*) the assignee shall be entitled to the same or the like estate or interest in or charge on the land, money, or securities for the time being representing the land, money, or securities comprised in the assignment, as he had by virtue of the assignment in the last-mentioned land, money, or securities; and

(*b*) if the assignment so provides, or if it takes effect by operation of the law of bankruptcy, and after notice thereof to the trustees of the settlement, no investment or application of capital money for the time being affected by the assignment shall be made without the consent of the assignee, except an investment in securities authorised by statute for the investment of trust money; and

(*c*) notice of the intended transaction shall, unless the assignment otherwise provides, be given to the assignee, but a purchaser shall not be concerned to see or inquire whether such notice has been given.

(5) Where such an assignment for value was made before the commencement of the principal Act, then on the exercise by the tenant for life after such commencement of any of the powers conferred by the Settled Land Acts—

(*a*) a purchaser shall not be concerned to see or inquire whether the consent of the assignee has been obtained; and

(*b*) the provisions of paragraph (*a*) of the last sub-section shall apply for the benefit of the assignee.

(6) A trustee or personal representative who is an assignee for value shall have power to consent to the exercise by the tenant for life of his powers under the Settled Land Acts, or to any such investment or application of capital money as aforesaid, and to bind by such consent all persons interested in the trust estate, or the estate of the testator or intestate.

4TH SCH. —*cont.*

(7) If by the original assignment, or by any subsequent disposition, the estate or interest assigned or created by the original assignment, or any part thereof, or any derivative interest is settled on persons in succession, whether subject to any prior charge or not, and there is no trustee or personal representative in whom the entirety of the estate or interest so settled is vested, then the person for the time being entitled in possession under the limitations of that settlement, whether as trustee or beneficiary, or who would, if of full age, be so entitled, and notwithstanding any charge or incumbrance subsisting or to arise under such settlement, shall have power to consent to the exercise by the tenant for life of his powers under the Settled Land Acts, or to any such investment or application of capital money as aforesaid, and to bind by such consent all persons interested or to become interested under such settlement.

(8) Where an assignee for value, or any person who has power to consent as aforesaid under this section is an infant, the consent may be given on his behalf by his parents or parent, or testamentary or other guardian in the order named.

(9) The court shall have power to authorise any person interested under any assignment to consent to the exercise by the tenant for life of his powers under the Settled Land Acts, or to any such investment or application of capital money as aforesaid, on behalf of himself and all other persons interested, or who may become interested under such assignment.

(10) An assignment by operation of the law of bankruptcy where the assignment comes into operation after the commencement of this Act, shall be deemed to be an assignment for value for the purposes of this section.

(11) An instrument whereby a tenant for life, in consideration of marriage or as part or by way of any family arrangement, not being a security for payment of money advanced, makes an assignment of or creates a charge upon his estate or interest under the settlement is to be deemed one of the instruments creating the settlement, and not an assignment for value for the purposes of this section :

Provided that this subsection shall not have effect with respect to any disposition made before the eighteenth day of August, eighteen hundred and ninety, if inconsistent with the nature or terms of the disposition.

(12) This section extends to assignments made or coming into operation before or after the commencement of this Act; and in this section " assignment " includes assignment by way of mortgage, and any partial or qualified assignment, and any charge or incumbrance; " assignee "

has a meaning corresponding with that of assignment, and "assignee for value" includes persons deriving title under the original assignee. 4th Sch. —*cont.*

(13) The foregoing provisions of this paragraph shall have effect in substitution for section fifty of the Act of 1882.

26. It is hereby declared that sub-paragraph (10) of paragraph 1 of the Tenth Schedule to the principal Act does not confer on a tenant for life or statutory owner a power which is merely a power of revocation or appointment. Additional powers.

27.—(1) The following paragraph shall be substituted for paragraph 13 of the Fifth Schedule to the principal Act:— Protection of purchasers.

"13.—(1) A purchaser of a legal estate in settled land shall not (except as hereby expressly provided) be bound or entitled to call for the production of the trust instrument or any information concerning that instrument or any ad valorem stamp duty thereon, and whether or not he has notice of its contents he shall, save as hereinafter provided, be bound and entitled if the last or only principal vesting instrument contains the statements and particulars required by this Act to assume that—

"(*a*) the person in whom the land is by the said instrument vested or declared to be vested is the tenant for life or statutory owner and has all the powers of a tenant for life under the Settled Land Acts, including such additional or larger powers (if any) as are therein mentioned;

"(*b*) the persons by the said instrument stated to be the trustees of the settlement, or their successors appearing to be duly appointed, are the properly constituted trustees of the settlement;

"(*c*) the statements and particulars required by this Act and contained (expressly or by reference) in the said instrument were correct at the date thereof;

"(*d*) the statements contained in any deed executed in accordance with this Act declaring who are the trustees of the settlement for the purposes of the Settled Land Acts are correct;

"(*e*) the statements contained in any deed of discharge, executed in accordance with this Act, are correct:

"Provided that, as regards the first vesting instrument executed for the purpose of giving effect to—

"(*a*) a settlement subsisting at the commencement of this Act; or

"(*b*) an instrument which by virtue of this Act is deemed to be a settlement; or

4TH SCH. —*cont.*

" (*c*) a settlement which by virtue of this Act is deemed to have been made by any person after the commencement of this Act; or

" (*d*) an instrument inter vivos intended to create a settlement of a legal estate in land which is executed after the commencement of this Act and does not comply with the requirements of this Act with respect to the method of effecting such a settlement;

a purchaser shall be concerned to see—

" (i) that the land disposed of to him is comprised in such settlement or instrument;

" (ii) that the person in whom the settled land is by such vesting instrument vested, or declared to be vested, is the person in whom it ought to be vested as tenant for life or statutory owner;

" (iii) that the persons thereby stated to be the trustees of the settlement are the properly constituted trustees of the settlement.

" (2) A purchaser of a legal estate in settled land from a personal representative shall be entitled to act on the following assumptions:

" (i) If the capital money (if any) payable in respect of the transaction is paid to the personal representative, that such representative is acting under his statutory or other powers and requires the money for purposes of administration;

" (ii) If such capital money is, by the direction of the personal representative, paid to persons who are stated to be the trustees of a settlement, that such persons are the duly constituted trustees of the settlement for the purposes of this Act, and that the personal representative is acting under his statutory powers during a minority;

" (iii) In any other case that the personal representative is acting under his statutory or other powers.

" (3) Where no capital money arises under a transaction, a disposition by a tenant for life or statutory owner shall, in favour of a purchaser of a legal estate, have effect under the Settled Land Acts notwithstanding that at the date of the transaction there are no trustees of the settlement.

" (4) If a conveyance of or an assent relating to land formerly subject to a vesting instrument does not state who are the trustees of the settlement for the purposes

4th Sch. —*cont.*

of the Settled Land Acts, a purchaser of a legal estate shall be bound and entitled to act on the assumption that the person in whom the land was thereby vested was entitled to the same free from all limitations, powers, and charges taking effect under that settlement, absolutely and beneficially, or, if so expressed in the conveyance or assent, as personal representative, or trustee for sale or otherwise, and that every statement of fact in such conveyance or assent is correct."

Definitions.

28. (1) In the Settled Land Acts—

"Lunatic" includes a lunatic whether so found or not and in relation to a lunatic not so found, "committee" includes a person on whom the powers of a committee are conferred under section one of the Lunacy Act, 1908;

"Dower" includes free bench;

(2) Where an equitable interest in or power over property arises by statute or operation of law, references to the creation of an interest or power include any interest or power so arising.

Transitional Provisions.

Vesting legal estate in tenant for life.

29. Sub-paragraph (1) and sub-paragraphs (3) to (7) of paragraph 9 of the Fifth Schedule to the principal Act are hereby repealed, and in lieu thereof the following provisions shall have effect:—

"(1) A settlement subsisting at the commencement of this Act is, for the purposes of this Act, a trust instrument.

"(2) As soon as practicable after the commencement of this Act, the trustees for the purposes of the Settled Land Acts of every settlement of land subsisting at the commencement of this Act (whether or not the settled land is already vested in them) may, and on the request of the tenant for life or statutory owner shall, at the cost of the trust estate, execute a principal vesting deed (containing the proper statements and particulars) declaring that the legal estate in the settled land shall vest or is vested in the person or persons therein named (being the tenant for life or statutory owner, and including themselves if they are the statutory owners), and such deed shall (unless the legal estate is already so vested) operate to convey or vest the legal estate in the settled land to or in the person or persons aforesaid and, if more than one, as joint tenants.

"(3) If there are no trustees of the settlement then (in default of a person able and willing to appoint such trustees), an application shall be made to the court by

4TH SCH. —*cont.*

the tenant for life or statutory owner, or by any other person interested, for the appointment of such trustees.

" (4) If default is made in the execution of any such principal vesting deed, the provisions of this Act relating to vesting orders of settled land shall apply in like manner as if the trustees of the settlement were persons in whom the settled land is wrongly vested.

" (5) This paragraph does not apply where, at the commencement of this Act, settled land is held at law or in equity in undivided shares vested in possession.

" (6) In the case of settlements subsisting at the commencement of this Act, all the estates, interests and powers thereby limited, which are not by statute otherwise converted into equitable interests or powers, shall, as from the date of the principal vesting deed or the vesting order take effect only in equity.

" (7) This paragraph does not apply where settled land is vested in personal representatives at the commencement of this Act, or where settled land becomes vested in personal representatives before a principal vesting deed has been executed pursuant to this paragraph.

" (8) No ad valorem stamp duty shall be payable in respect of a vesting deed or order made for giving effect to an existing settlement."

Where land is vested in personal representative.

30. The provisions of the principal Act relating to the getting in of the settled land from a personal representative shall have effect as follows :—

" (1) Where settled land remains at the commencement of this Act vested in the personal representatives of a person who dies before such commencement, or becomes vested in personal representatives before a principal vesting deed has been executed for vesting the land in a tenant for life or statutory owner, the personal representatives shall hold the settled land on trust, if and when required so to do, to convey the same to the person who, under the trust instrument, or by virtue of the Settled Land Acts, is the tenant for life or statutory owner and, if more than one, as joint tenants.

" (2) A conveyance under this paragraph shall be made at the cost of the trust estate, and may be made by an assent in writing signed by the personal representatives which shall operate as a conveyance. No stamp duty is payable in respect of a vesting assent.

" (3) The obligation to convey settled land imposed on personal representatives by this paragraph is subject and without prejudice—

" (*a*) to their rights and powers for purposes of administration; and

4th Sch. —*cont.*

"(*b*) to their being satisfied that provision has been or will be made for the payment of any unpaid death duties in respect of the land or any interest therein for which they are accountable, and any interest and costs in respect of such duties, or that they are otherwise effectually indemnified against such duties, interest and costs.

"(4) A conveyance under this paragraph shall—

"(*a*) if by deed, be a principal vesting deed; and

"(*b*) if by an assent, be a vesting assent, which shall contain the like statements and particulars as are required by this Act in the case of a principal vesting deed.

"(5) Nothing contained in this paragraph affects the rights of personal representatives to transfer or create such legal estates to take effect in priority to a conveyance under this paragraph as may be required for giving effect to the obligations imposed on them by statute.

"(6) A conveyance by personal representatives under this paragraph, if made by deed, may contain a reservation to themselves of a term of years absolute in the land conveyed upon trusts for indemnifying them against any unpaid death duties in respect of the land conveyed or any interest therein, and any interest and costs in respect of such duties.

"(7) Nothing contained in this paragraph affects any right which a person entitled to an equitable charge for securing money actually raised, and affecting the whole estate the subject of the settlement, may have to require effect to be given thereto by a legal mortgage, before the execution of a conveyance under this section."

Provisions as to infants.

31.—(1) Where, at the commencement of the principal Act, an infant is beneficially entitled to land in possession for an estate in fee simple or for a term of years absolute, or would, if of full age, be a tenant for life or have the powers of a tenant for life, the settled land shall, by virtue of the principal Act, vest in the trustees (if any) of the settlement upon such trusts as may be requisite for giving effect to the rights of the infant and other persons (if any) interested:

Provided that, if there are no such trustees, then—

(i) Pending their appointment, the settled land shall, by virtue of the principal Act, vest in the Public Trustee upon the trusts aforesaid:

(ii) The Public Trustee shall not be entitled to act in the trust, or charge any fee, or be liable in any manner unless and until requested in writing to act on behalf

4TH SCH. —*cont.*

of the infant by his parents or parent or testamentary or other guardian in the order named :

(iii) After the Public Trustee has been so requested to act, and has accepted the trust, he shall become the trustee of the settlement, and no trustee shall (except by an order of the court) be appointed in his place without his consent :

(iv) If there is no other person able and willing to appoint trustees the parents or parent or testamentary or other guardian of the infant, if respectively able and willing to act, shall (in the order named) have power by deed to appoint trustees of the settlement in place of the Public Trustee in like manner as if the Public Trustee had refused to act in the trust, and to vest the settled land in them on the trusts aforesaid, and the provisions of the Trustee Acts relating to the appointment of new trustees, and the vesting of trust property shall apply as if the persons aforesaid (in the order named) had been nominated by the settlement for the purpose of appointing new trustees thereof ; and in default of any such appointment the infant by his next friend, may, at any time during the minority, apply to the court for the appointment of trustees of the settlement, and the court may make such order as it thinks fit, and if thereby trustees of the settlement are appointed, the settled land shall, by virtue of this Act, vest in the trustees as joint tenants upon the trusts aforesaid :

Provided that in favour of a purchaser a statement in the deed of appointment that the father or mother or both are dead or are unable or unwilling to make the appointment shall be conclusive evidence of the fact stated.

(v) If land to which an infant is beneficially entitled in possession for an estate in fee simple or for a term of years absolute vests in the Public Trustee, but the Public Trustee does not become the trustee of the settlement, and trustees of the settlement are not appointed in his place, then, if and when the infant attains the age of twenty-one years, the land shall vest in him.

(2) The provisions of this paragraph shall extend to the legal estate in the settled land, except where such legal estate is, at or immediately after the commencement of the principal Act, vested in personal representatives, in which case this paragraph shall have effect without prejudice to the provisions expressly relating thereto.

(3) Where, at the commencement of the principal Act, any persons appointed under section sixty of the Settled Land Act,

4th Sch. —*cont.*

1882, have power to act generally or for any specific purpose on behalf of an infant, then those persons shall, by virtue of the principal Act, become and be the trustees of the settlement.

(4) Notwithstanding that the settled land is by virtue of this paragraph vested in the trustees of the settlement, they shall, at the cost of the trust estate, in accordance with this Act, execute a principal vesting deed declaring that the settled land is vested in them.

(5) This paragraph does not apply where an infant is beneficially entitled in possession to land for an estate in fee simple or for a term of years absolute jointly with a person of full age (for which case provision is otherwise made by statute), but it applies to two or more infants entitled as aforesaid jointly.

(6) This paragraph does not apply where an infant would, if of full age, constitute the tenant for life or have the powers of a tenant for life together with another person of full age, but it applies to two or more infants who would, if all of them were of full age, together constitute the tenant for life or have the powers of a tenant for life.

(7) The foregoing provisions of this paragraph shall have effect in substitution for subsections (6) and (8) of section fifty-one of and paragraph 1 of the Sixth Schedule to the principal Act.

FIFTH SCHEDULE.

Section 5.

Trustees.

Part I.

Amendments.

Investments.

1.—(1) The following paragraph shall be substituted for paragraph (*d*) of section one of the Act of 1893 :—

"(*d*) In India Seven, Five-and-a-half, Four-and-a-half, Three-and-a-half, Three and Two-and-a-half per cent. Stock, or in any other capital stock which may at any time be issued by the Secretary of State in Council of India under the authority of Act of Parliament, and charged on the revenues of India, or any other securities the interest in sterling whereon is payable out of and charged on the revenues of India."

(2) Paragraphs (*i*) and (*k*) of the said section one shall have effect and be deemed always to have had effect as if after the word "company" in each of those paragraphs there had been inserted "owning or operating a railway."

5TH SCH. —*cont.*

2. The following section shall be substituted for section seven of the Act of 1893 :—

Bearer securities.

"7. (1) A trustee may, unless expressly prohibited by the instrument creating the trust, retain or invest in securities payable to bearer which, if not so payable, would have been authorised investments :

"Provided that securities to bearer retained or taken as an investment by a trustee (not being a trust corporation) shall, until sold, be deposited by him for safe custody and collection of income with a banker or banking company.

"A direction that investments shall be retained or made in the name of a trustee shall not, for the purposes of this subsection, be deemed to be such an express prohibition as aforesaid.

"(2) A trustee shall not be responsible for any loss incurred by reason of such deposit, and any sum payable in respect of such deposit and collection shall be paid out of the income of the trust property."

Power to sell by auction, &c., and to give valid receipts.

3.—(1) Subsection (3) of section thirteen of the Act of 1893 is hereby repealed.

(2) The following subsection shall be inserted at the end of section twenty of the Act of 1893 :—

"This section applies notwithstanding anything to the contrary contained in any instrument creating the trust."

(3) The said section twenty as amended by this paragraph shall have effect subject to the statutory restrictions on the power for a sole trustee, not being a trust corporation, to give valid receipts.

Power to compound, &c.

4. The powers conferred by subsection (2) of section twenty-one of the Act of 1893 shall be extended so as to include a power—

(*a*) to accept any property, real or personal, before the time at which it is made transferable or payable; or

(*b*) to sever and apportion any blended trust funds or property.

Power to raise money.

5.—(1) The words "for the time being in possession" shall be inserted at the end of subsection (1) of section one hundred and twenty-two of the principal Act, and that subsection applies notwithstanding anything to the contrary in the instrument creating the trust.

(2) The words "to trustees of property held for charitable purposes, or to" shall be inserted after "apply" in subsection (2) of the same section.

Devolution of trusts and powers.

6. Section twenty-two of the Act of 1893 shall apply to trusts whenever constituted, and shall take effect subject to the restrictions imposed in regard to receipts by a sole trustee not being a trust corporation.

5TH SCH. —*cont.*

7. In subsection (7) of section one hundred and twenty of the principal Act the words "examined or" shall be inserted after "accounts of the trust property to be" and the words "examination or" shall be inserted after "costs of such." Audit.

8. The following sections shall be inserted at the end of Part IV. of the principal Act—

Powers to delegate.

"127A.—(1) A trustee intending to remain out of the United Kingdom for a period exceeding one month may, notwithstanding any rule of law or equity to the contrary, by power of attorney, delegate to any person, including a trust corporation, the execution or exercise during his absence from the United Kingdom of all or any trusts, powers and discretions vested in him as such trustee, either alone or jointly with any other person or persons:

"Provided that a person being the only other co-trustee and not being a trust corporation shall not be appointed to be an attorney under this subsection.

"(2) The donor of a power of attorney given under this section shall be liable for the acts or defaults of the donee in the same manner as if they were the acts or defaults of the donor.

"(3) The power of attorney shall not come into operation unless and until the donor is out of the United Kingdom, and shall be revoked by his return.

"(4) The power of attorney shall be attested by at least one witness, and shall be filed at the Central Office within ten days after the execution thereof with a statutory declaration by the donor that he intends to remain out of the United Kingdom for a period exceeding one month from the date of such declaration, or from a date therein mentioned.

"(5) The execution of such instrument and statutory declaration shall be verified in such manner as is required by statute in the case of powers of attorney filed at the Central Office.

"(6) If the power of attorney confers a power to dispose of or deal with land or a charge registered under the Land Transfer Acts, an office copy shall be filed at the land registry.

"(7) The statutory declaration aforesaid and a statutory declaration by the donee of the power of attorney that the power has come into operation and has not been revoked by the return of the donor shall be conclusive evidence of the facts stated in favour of any person dealing with the donee.

5TH SCH. —*cont.*

"(8) In favour of any person dealing with the donee, any act done or instrument executed by the donee shall, notwithstanding that the power has never come into operation or has become revoked by the act of the donor or by his death or otherwise, be as valid and effectual as if the donor were alive and of full capacity, and had himself done such act or executed such instrument, unless such person had actual notice that the power had never come into operation or of the revocation of the power before such act was done or instrument executed.

"(9) For the purpose of executing or exercising the trusts or powers delegated to him, the donee may exercise any of the powers conferred on the donor by statute or by the instrument creating the trust, including power, for the purpose of the transfer of any inscribed stock, himself to delegate to an attorney the power to transfer but not including the power of delegation conferred by this section.

"(10) The fact that it appears from any power of attorney given under this section, or from any evidence required for the purposes of any such power of attorney or otherwise, that in dealing with any stock the donee of the power is acting in the execution of a trust shall not be deemed for any purpose to affect any person in whose books the stock is inscribed or registered with any notice of the trust.

"(11) In this section 'trustee' includes a tenant for life and a statutory owner."

Protection in regard to notice.

"127B. A trustee or personal representative acting for the purposes of more than one trust or estate shall not, in the absence of fraud, be affected by notice of any instrument, matter, fact or thing in relation to any particular trust or estate if he has obtained notice thereof merely by reason of his acting or having acted for the purposes of another trust or estate."

Maintenance.

9. In subsection (3) of section eighty-eight of the principal Act, the words "if the income available is sufficient and subject "to any rules of the court to the contrary" shall be inserted before "be five pounds."

Appointments of trustees.

10.—(1) In subsection (5) of section one hundred and ten of the principal Act the words "intending to renounce or all the executors where they all intend to renounce" shall be inserted after "last surviving executor."

(2) The following subsection shall be inserted at the end of section ten of the Act of 1893—

"(7) Where a lunatic or defective, being a trustee, is also entitled in possession to some beneficial interest in the

5th Sch. —*cont.*

trust property, no appointment of a new trustee in his place shall be made by the continuing trustees or trustee under this section unless leave has been given by the Judge or Master in Lunacy to make the appointment."

(3) In subsection (1) of section one hundred and eleven of the principal Act, the words "or that he is not entitled to a "beneficial interest in the trust property in possession" shall be inserted after "acting."

Jurisdiction in regard to lunatics.

11. Subsections (2) (3) and (5) of section two of the Lunacy Act, 1922, in regard to trustees shall be read as follows:—

"Where the High Court has power under the Trustee Acts to make orders in relation to lunatics and defectives who are trustees, the Judge or Master in Lunacy shall, save as provided in this section, have no power to make such an order:

"Provided that where—

(*a*) a lunatic or defective has become a trustee of mortgaged property merely by reason of the mortgage having been paid off; or

(*b*) an order in lunacy is made authorising the exercise of a power to appoint a trustee; or

(*c*) an order in lunacy is made for giving effect to a contract made before the lunatic or defective was under disability; or

(*d*) a lunatic or defective is beneficially entitled to some interest in the property but holds the property or some interest therein under an express implied or constructive trust;

the High Court and the Judge or Master in Lunacy shall, subject to and in accordance with rules made by the Lord Chancellor, have concurrent jurisdiction."

Application to Settled Land Act Trustees.

12.—(1) All the powers and provisions contained in the Act of 1893, with reference to the appointment of new trustees, and the discharge and retirement of trustees, shall apply to and include trustees for the purposes of the Settled Land Acts, and for the purpose of the management of land during a minority, whether such trustees are appointed by the court or by the settlement, or under provisions contained in any instrument.

(2) Where, either before or after the commencement of the principal Act, trustees of a settlement have been appointed by the court for the purposes of the Settled Land Acts, then, after the commencement of that Act—

(*a*) the person or persons nominated for the purpose of appointing new trustees by the instrument, if any, creating the settlement though no trustees for the purposes of the Settled Land Acts were thereby appointed; or

5TH SCH. —*cont.*

(*b*) if there is no such person, or no such person able and willing to act, the surviving or continuing trustees or trustee for the time being for the purposes of the Settled Land Acts or the personal representatives of the last surviving or continuing trustee for those purposes;

shall have the statutory powers to appoint new or additional trustees of the settlement for the purposes of the Settled Land Acts.

(3) Appointments of new trustees for the purposes of the Settled Land Acts made or expressed to be made before the commencement of the principal Act by the trustees or trustee or personal representatives referred to in sub-paragraph (2) (*b*) of this paragraph or by the persons referred to in sub-paragraph (2) (*a*) of this paragraph are, without prejudice to any order of the court made before such commencement, hereby confirmed.

(4) The foregoing provisions of this paragraph shall have effect in substitution for section forty-seven of the Act of 1893.

The Crown.

13. The Act of 1893 as amended shall bind the Crown.

PART II.

PROVISIONS FOR FACILITATING CONSOLIDATION OF THE LAW RELATING TO TRUSTEES.

Supplementary powers of investment.

1. In subsection (2) of section one hundred and nineteen of the principal Act the words "or subdemise" shall be inserted after "demise" and the words "less a nominal reversion when by subdemise" shall be inserted after "of not less than five hundred years."

Protection against liability for rents, &c.

2.—(1) Where a personal representative or trustee liable as such for—

(*a*) any rent, covenant, or agreement reserved by or contained in any lease; or

(*b*) any rent, covenant or agreement payable under or contained in any grant made in consideration of a rentcharge; or

(*c*) any indemnity given in respect of any rent, covenant or agreement referred to in either of the foregoing paragraphs;

satisfies all liabilities under the lease or grant which may have accrued, or been claimed up to the date of the conveyance hereinafter mentioned, and, where necessary, sets apart a sufficient fund to answer any future claim that may be made in respect of any fixed and ascertained sum which the lessee

5th Sch. —*cont.*

or grantee agreed to lay out on the property demised or granted, although the period for laying out the same may not have arrived, then and in any such case the personal representative or trustee may convey the property demised or granted to a purchaser, legatee, devisee, or other person entitled to call for a conveyance thereof and thereafter—

(i) He may distribute the residuary real and personal estate of the deceased testator or intestate, or, as the case may be, the trust estate, other than the fund, if any, set apart as aforesaid, to or amongst the persons entitled thereto, without appropriating any part, or any further part, as the case may be, of the estate of the deceased or of the trust estate to meet any future liability under the said lease or grant;

(ii) Notwithstanding such distribution, he shall not be personally liable in respect of any subsequent claim under the said lease or grant.

(2) This paragraph operates without prejudice to the right of the lessor or grantor, or the persons deriving title under the lessor or grantor, to follow the assets of the deceased or the trust property into the hands of the persons amongst whom the same may have been respectively distributed; and applies notwithstanding anything to the contrary in the will or other instrument, if any, creating the trust.

(3) In this paragraph "lease" includes an underlease and an agreement for a lease or underlease and any instrument giving any such indemnity as aforesaid or varying the liabilities under the lease, "grant" applies to a grant whether the rent is created by limitation, grant, reservation, or otherwise, and includes an agreement for a grant and any instrument giving any such indemnity as aforesaid or varying the liabilities under the grant, and "lessee" and "grantee" include persons respectively deriving title under them.

(4) The provisions of this paragraph shall have effect in substitution for sections twenty-seven and twenty-eight of the Law of Property Amendment Act, 1859, as amended by section one hundred and seventeen of the principal Act.

Protection by means of advertisements.

3. It is hereby declared that section twenty-nine of the Law of Property Amendment Act, 1859, as amended by section one hundred and eighteen of the principal Act, does not relieve the trustees or personal representatives from any obligation to make searches or obtain official certificates of search similar to those which an intending purchaser would be advised to make or obtain, and that the said section twenty-nine as so amended applies notwithstanding anything to the contrary in the will or other instrument, if any, creating the trust.

5TH SCH. —*cont.*

4. The following subsection shall be substituted for subsection (1) of section one hundred and twenty-one of the principal Act :—

Advancement.

" (1) Trustees may at any time or times pay or apply any capital money subject to a trust, for the advancement or benefit, in such manner as they may, in their absolute discretion, think fit, of any person entitled to the capital of the trust property or of any share thereof, whether absolutely or contingently on his attaining any specified age or on the occurrence of any other event, or subject to a gift over on his death under any specified age or on the occurrence of any other event, and whether in possession or in remainder or reversion; and such payment or application may be made notwithstanding that the interest of such person is liable to be defeated by the exercise of a power of appointment or revocation, or to be diminished by the increase of the class to which he belongs :

" Provided that—

" (*a*) the money so paid or applied for the advancement or benefit of any person shall not exceed altogether in amount one-half of the presumptive or vested share or interest of that person in the trust property; and

" (*b*) if that person is or becomes absolutely and indefeasibly entitled to a share in the trust property the money so paid or applied shall be brought into account as part of such share; and

" (*c*) no such payment or application shall be made so as to prejudice any person entitled to any prior life or other interest, whether vested or contingent, in the money paid or applied unless such person is in existence and of full age and consents in writing to such payment or application."

Appointments of trustees.

5.—(1) The following paragraphs shall be substituted for paragraphs (*c*) and (*d*) of subsection (2) of section one hundred and nine of the principal Act.

" (*c*) Appointments of new trustees of conveyances on trust for sale on the one hand and of the settlement of the proceeds of sale on the other hand, shall, subject to any order of the court, be effected by separate instruments, but in such manner as to secure that the same persons shall become the trustees of the conveyance on trust for sale as become the trustees of the settlement of the proceeds of sale.

5TH SCH. —*cont.*

"(*d*) Where new trustees of a settlement are appointed, a memorandum of the names and addresses of the persons who are for the time being the trustees thereof for the purposes of the Settled Land Acts, shall be endorsed on or annexed to the last or only principal vesting instrument by or on behalf of the trustees of the settlement, and such vesting instrument shall, for that purpose, be produced by the person having the possession thereof to the trustees of the settlement when so required."

(2) In subsection (1) of section ten of the Act of 1893, after the words "other persons" the words "whether or not being the persons exercising the power" shall be inserted.

(3) Subsection (2) of section ten of the Act of 1893 shall have effect as if the word "new" where that word first occurs were omitted therefrom.

(4) Nothing in the Trustee Acts shall authorise the appointment of a sole trustee, not being a trust corporation, where the trustee, when appointed, would not be able to give valid receipts for all capital money arising under the trust.

Vesting orders of land.

6. (1) In any of the following cases, namely:—

(i) Where the court appoints or has appointed a trustee, or where a trustee has been appointed out of court, under any statutory or express power:

(ii) Where a trustee entitled to or possessed of any land or interest therein (whether by way of mortgage or otherwise), or entitled to a contingent right therein, either solely or jointly with any other person—

(*a*) is under disability, or

(*b*) is out of the jurisdiction of the High Court, or

(*c*) cannot be found, or, being a corporation, has been dissolved:

(iii) Where it is uncertain who was the survivor of two or more trustees jointly entitled to or possessed of any interest in land:

(iv) Where it is uncertain whether the last trustee known to have been entitled to or possessed of any interest in land, is living or dead:

(v) Where there is no personal representative of a deceased trustee who was entitled to or possessed of any interest in land, or where it is uncertain who is the personal representative of a deceased trustee who was entitled to or possessed of any interest in land:

(vi) Where a trustee jointly or solely entitled to or possessed of any interest in land, or entitled to a

5TH SCH. —*cont.*

contingent right therein has been required, by or on behalf of a person entitled to require a conveyance of the land or interest or a release of the right, to convey the land or interest or to release the right, and has wilfully refused or neglected to convey the land or interest or release the right for twenty-eight days after the date of the requirement:

(vii) Where land or any interest therein is vested in a trustee whether by way of mortgage or otherwise, and it appears to the court to be expedient;

the court may make an order vesting the land or interest therein in any such person in any such manner and for any such estate or interest as the court may direct, or releasing or disposing of the contingent right to such person as the court may direct:

Provided that—

(*a*) Where the order is consequential on the appointment of a trustee the land or interest therein shall be vested for such estate as the court may direct in the persons who on the appointment are the trustees; and

(*b*) Where the order relates to a trustee entitled or formerly entitled jointly with another person, and such trustee is under disability or out of the jurisdiction of the High Court or cannot be found, or being a corporation has been dissolved, the land, interest or right shall be vested in such other person who remains entitled, either alone or with any other person the court may appoint.

(2) The foregoing provisions of this paragraph shall have effect in substitution for section twenty-six of the Act of 1893 as amended by any subsequent enactment, and the expression "vesting order" in the Act of 1893 shall be construed as meaning an order made under this paragraph.

Vesting orders of stock and things in action.

7.—(1) In any of the following cases, namely:—

(i) Where the court appoints or has appointed a trustee, or where a trustee has been appointed out of court under any statutory or express power:

(ii) Where a trustee entitled (whether by way of mortgage or otherwise) alone or jointly with another person to stock or to a thing in action—

(*a*) is under disability; or

(*b*) is out of the jurisdiction of the High Court; or

5th Sch. —*cont.*

(*c*) cannot be found, or, being a corporation has been dissolved; or

(*d*) neglects or refuses to transfer stock or receive the dividends or income thereof, or to sue for or recover a thing in action, according to the direction of the person absolutely entitled thereto for twenty-eight days next after a request in writing has been made to him by the person so entitled; or

(*e*) neglects or refuses to transfer stock or receive the dividends or income thereof, or to sue for or recover a thing in action for twenty-eight days next after an order of the court for that purpose has been served on him:

(iii) Where it is uncertain whether a trustee entitled alone or jointly with another person to stock or to a thing in action is alive or dead:

(iv) Where stock is standing in the name of a deceased person whose personal representative is under disability:

(v) Where stock or a thing in action is vested in a trustee whether by way of mortgage or otherwise and it appears to the court to be expedient:

the court may make an order vesting the right to transfer or call for a transfer of stock, or to receive the dividends or income thereof, or to sue for or recover a thing in action, in any such person as the court may appoint:

Provided that—

(*a*) Where the order is consequential on the appointment of a trustee, the right shall be vested in the persons who, on the appointment, are the trustees:

(*b*) Where the person whose right is dealt with by the order was entitled jointly with another person, the right shall be vested in that last-mentioned person either alone or jointly with any other person whom the court may appoint.

(2) In all cases where a vesting order can be made under this paragraph, the court may, if it is more convenient, appoint some proper person to make or join in making the transfer:

Provided that the person appointed to make or join in making a transfer of stock shall be some proper officer of the bank, or the company or society whose stock is to be transferred.

(3) The person in whom the right to transfer or call for the transfer of any stock is vested by an order of the court under

5TH SCH. —*cont.*

the Trustee Acts, may transfer the stock to himself or any other person, according to the order, and the Banks of England and Ireland and all other companies shall obey every order under this paragraph according to its tenor.

(4) After notice in writing of an order under this paragraph it shall not be lawful for the Bank of England or of Ireland or any other company to transfer any stock to which the order relates or to pay any dividends thereon except in accordance with the order.

(5) The court may make declarations and give directions concerning the manner in which the right to any stock or thing in action vested under the provisions of the Trustee Acts is to be exercised.

(6) The provisions of the Trustee Acts as to vesting orders shall apply to shares in ships registered under the Acts relating to merchant shipping as if they were stock.

(7) The provisions of this paragraph shall have effect in substitution for section thirty-five of the Act of 1893 as amended by any subsequent enactment.

Orders conclusive evidence.

8. The following section shall be substituted for section forty of the Act of 1893:—

"40. Where a vesting order is made as to any land under this Act or under the Lunacy Act, 1890 (as amended), or under any Act relating to lunacy in Northern Ireland, founded on an allegation of any of the following matters namely—

"(*a*) the personal incapacity of a trustee or mortgagee; or

"(*b*) that a trustee or mortgagee or the personal representative of or other person deriving title under a trustee or mortgagee is out of the jurisdiction of the High Court or cannot be found, or being a corporation has been dissolved; or

"(*c*) that it is uncertain which of two or more trustees, or which of two or more persons interested in a mortgage, was the survivor; or

"(*d*) that it is uncertain whether the last trustee or the personal representative of or other person deriving title under a trustee or mortgagee, or the last surviving person interested in a mortgage is living or dead; or

"(*e*) that any trustee or mortgagee has died intestate without leaving a person beneficially interested under the intestacy or has died and it is not known who is his personal representative or the person interested;

5th Sch. —*cont.*

the fact that the order has been so made shall be conclusive evidence of the matter so alleged in any court upon any question as to the validity of the order; but this section shall not prevent the court from directing a reconveyance or surrender or the payment of costs occasioned by any such order if improperly obtained."

SIXTH SCHEDULE.

Section 6.

Land Charges, &c.

Part I.

Amendments.

Closing of the annuities register.

1. The Land Charges Acts shall have effect as if the following section were comprised therein:—

"An annuity registered before the commencement of the principal Act, in the register of annuities may remain registered until the entry is vacated in the prescribed manner, on the prescribed evidence as to satisfaction cesser or discharge being furnished.

"No annuity shall be entered in the register of annuities after the commencement of the principal Act, and the register may be closed in the prescribed manner when all the entries therein have been vacated, or the prescribed evidence of the satisfaction cesser or discharge of all the annuities has been furnished."

Local land charges.

2. In sub-paragraph (7) of paragraph 2 of the Seventh Schedule to the principal Act the words "or any order, scheme or other instrument made in pursuance of any statute" shall be inserted after "as aforesaid" and in the proviso to that subsection the words "order, scheme or instrument" shall be inserted after "statute."

Penalty for misdemeanour in reference to official certificates of search.

3. The following words shall be inserted at the end of subsection (6) of section two of the Conveyancing Act, 1882:—

"and shall be liable on conviction on indictment to imprisonment for a term not exceeding two years, or on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding twenty pounds or to both such imprisonment and fine."

6TH SCH. —*cont.*

PART II.

PROVISIONS FOR FACILITATING CONSOLIDATION OF THE LAW RELATING TO THE REGISTRATION OF PENDING ACTIONS, ANNUITIES, WRITS, ORDERS, DEEDS OF ARRANGEMENT AND LAND CHARGES, AND TO SEARCHES.

Applications.

1. Every application to register a pending action, writ or order affecting land, deed of arrangement affecting land or land charge, shall be in the prescribed form and shall contain the prescribed particulars.

Pending actions.

2. The enactments (namely, section seven of the Judgments Act, 1839, and section sixteen of the principal Act) relating to the registration of pending actions shall be read as follows :—

"A pending action (that is to say, any action, information or proceeding pending in court relating to land or any interest in or charge on land, and a petition in bankruptcy filed after the commencement of the principal Act) may be registered in the register of pending actions."

Register of land charges.

3.—(1) The following classes of charges on, or obligations affecting, land may be registered as land charges in the register of land charges, namely :—

Class A—A rent, or annuity, or principal money payable by instalments or otherwise, with or without interest, being a charge (otherwise than by deed) upon land created pursuant to the application of some person either before or after the commencement of the principal Act—

(i) under the provisions of any Act of Parliament, for securing to any person either the money spent by him or the costs, charges, and expenses incurred by him under such Act, or the money advanced by him for repaying the money spent, or the costs, charges, and expenses incurred by another person under the authority of an Act of Parliament; or

(ii) under section thirty-five of the Land Drainage Act, 1861; or

(iii) under section twenty or section forty-one of the Agricultural Holdings Act, 1923, or any previous similar enactment; or

(iv) under section four or section six of the Tithe Act, 1918; or

(v) under section one of the Tithe Annuities Apportionment Act, 1921;

but not including a rate or scot.

Class B—A charge on land (not being a local land charge) of any of the kinds described in Class A, created, otherwise than pursuant to the application of any person, either before or after the commencement of the principal Act, but

6th Sch. —*cont.*

if created before such commencement only if acquired under a conveyance made after such commencement.

Class C—A mortgage charge or obligation affecting land of any of the following kinds, created either before or after the commencement of the principal Act, but if created before such commencement only if acquired under a conveyance made after such commencement, namely :—

(i) Any legal mortgage not being a mortgage protected by a deposit of documents relating to the legal estate affected and (where the whole of the land affected is within the jurisdiction of a local deeds registry) not being registered in the local deeds register (in the Land Charges Acts called a "puisne mortgage"); and

(ii) Any equitable charge acquired by a tenant for life or statutory owner under the Finance Act, 1894, or any other statute, by reason of the discharge by him of any death duties or other liabilities, and to which special priority is given by the statute (in the Land Charges Acts called "a limited owner's charge"); and

(iii) Any other equitable charge, which is not secured by a deposit of documents relating to the legal estate affected or does not arise or affect an interest arising under a trust for sale or a settlement and is not included in any other class of land charge (in the Land Charges Acts called "a general equitable charge"); and

(iv) Any contract by an estate owner or by a person entitled at the date of the contract to have a legal estate conveyed to him to convey or create a legal estate, including a contract conferring either expressly or by statutory implication a valid option of purchase, a right of pre-emption or any other like right (in the Land Charges Acts referred to as "an estate contract").

Class D—A charge or obligation affecting land of any of the following kinds, namely :—

(i) Any charge acquired by the Commissioners of Inland Revenue under any statute passed or hereafter to be passed for death duties leviable or payable on any death which occurs after the commencement of the principal Act; and

(ii) A covenant or agreement (not being a covenant or agreement made between a lessor and lessee) restrictive of the user of land entered into after the commencement of the principal Act (in the Land Charges Acts referred to as "a restrictive covenant"); and

6TH SCH. —*cont.*

(iii) Any easement right or privilege over or affecting land created or arising after the commencement of the principal Act, and being merely an equitable interest (in the Land Charges Acts referred to as an "equitable easement").

Class E—An annuity within the meaning of the Judgments Act, 1855, created before the commencement of the principal Act, and not registered in the register of annuities.

(2) A land charge shall be registered in the name of the estate owner whose estate is intended to be affected save that, in the case of a land charge registered before the commencement of the principal Act, in the name of a person not being the estate owner, it may remain so registered until it is registered in the name of the estate owner in the prescribed manner.

(3) Where a land charge is not created by an instrument, short particulars of the effect of the charge shall be furnished with the application to register the charge.

(4) Nothing in this section shall be deemed to authorise the Commissioners of Inland Revenue to register a land charge in respect of any claim for death duties unless the duty has become a charge on the land, and the application to register any such charge, shall state the duties in respect of which the charge is claimed, and, so far as possible, shall define the land affected, and such particulars shall be entered or referred to in the register.

(5) In the case of a land charge for securing money, created by a company, registration under section ninety-three of the Companies (Consolidation) Act, 1908, shall be sufficient in place of registration under the Land Charges Acts, and shall have effect as if the land charge had been registered under the Land Charges Acts.

(6) In the case of a general equitable charge, restrictive covenant, equitable easement or estate contract, affecting land within any of the three ridings, the registration in the prescribed manner in the appropriate local deeds registry of the document creating it shall be sufficient in place of registration under the Land Charges Acts, and the registration shall have effect as if the land charge created by the document had been registered under the Land Charges Acts.

(7) A puisne mortgage created before the commencement of the principal Act may be registered as a land charge before any transfer of the mortgage is made.

(8) The registration of a land charge may be vacated pursuant to an order of court, or a judge thereof.

(9) The provisions of this paragraph shall have effect in substitution for section ten of the Act of 1888.

6th Sch. —*cont.*

Protection of purchasers.

4.—(1) A land charge of Class A created after the thirty-first day of December, eighteen hundred and eighty-eight, is void as against a purchaser of the land charged therewith or of any interest in such land, unless the land charge is registered in the register of land charges before the completion of the purchase.

(2) A land charge of Class B, C or D created or arising after the commencement of the principal Act, shall (save as hereinafter provided) be void as against a purchaser of the land charged therewith, or of any interest in such land, unless the land charge is registered in the appropriate register before the completion of the purchase:

Provided that as respects a land charge of Class D and an estate contract created or entered into after the commencement of the principal Act, the last subsection only applies in favour of a purchaser of a legal estate for money or money's worth.

(3) The foregoing provisions of this paragraph shall have effect in substitution for section twelve of the Act of 1888.

Further protection of purchasers.

5.—(1) After the expiration of one year from the first conveyance, occurring on or after the first day of January, eighteen hundred and eighty-nine, of a land charge of Class A created before that date, the person entitled thereto is not able to recover the same or any part thereof, as against a purchaser of the land charged therewith, or of any interest in such land, unless the land charge is registered in the register of land charges before the completion of the purchase.

(2) After the expiration of one year from the first conveyance, occurring after the commencement of the principal Act, of a land charge of Class B or C created before such commencement, the person entitled thereto shall not be able to enforce or recover the same or any part thereof as against a purchaser of the land charged therewith, or of any interest in such land, unless the land charge is registered in the appropriate register before the completion of the purchase.

(3) The foregoing provisions of this paragraph shall have effect in substitution for section thirteen of the Act of 1888.

Rules.

6. The words "and any assignment thereof" in sub-paragraph (3) of paragraph 1 of the Seventh Schedule to the principal Act are hereby repealed, and the power to make general rules shall be extended so as to authorise the making of rules providing for the registration of a puisne mortgage.

7. The Land Charges Acts shall have effect as if the following sections were included therein:—

Saving of over-reaching powers.

"(1) The registration of any charge, annuity or other interest under the Land Charges Acts shall not prevent

6TH SCH. —*cont.*

such charge, annuity or interest being overreached under any provision contained in any other statute, except where otherwise provided by such other statute.

" (2) The registration as a land charge of a puisne mortgage or charge shall not operate to prevent such mortgage or charge being overreached in favour of a prior mortgagee or a person deriving title under him where, by reason of a sale foreclosure or otherwise, the right of the puisne mortgagee or subsequent chargee to redeem is barred."

Application to registered land.

" (1) As respects pending actions, writs, orders, deeds of arrangement and land charges, not including local land charges, required to be registered or re-registered after the commencement of the principal Act, the Land Charges Acts shall not apply thereto if and so far as they affect registered land, and can be protected under the Land Transfer Acts, by lodging or registering a creditor's notice, restriction, caution, inhibition or other notice.

" (2) Nothing in the Land Charges Acts shall impose on the registrar any obligation to ascertain whether or not a pending action, writ, order, deed of arrangement or land charge affects registered land."

Application to the Crown.

8. The Land Charges Acts shall bind the Crown, but nothing therein contained shall be construed as rendering land owned or occupied for the purposes of the Crown, subject to any charge to which independently of those enactments it would not be subject.

SEVENTH SCHEDULE.

Section 7.

ADMINISTRATION OF ESTATES.

PART I.

AMENDMENTS.

Number of personal representatives.

1. The following proviso shall be inserted at the end of subsection (7) of section one hundred and fifty-five of the principal Act :—

" Provided that the court in granting administration may act on such primâ facie evidence, furnished by the applicant or any other person, as to whether or not there is a minority or life interest, as may be prescribed by probate rules."

7th Sch. —*cont.*

2.—(1) In subsection (7) of section one hundred and fifty-six of the principal Act the words "or in respect of a trust estate" only" shall be inserted after "there is no personal estate." Representation.

(2) The following proviso shall be inserted at the end of the said subsection :—

"Provided that where the estate of the deceased is known to be insolvent the grant of representation to the real and personal estate shall not be severed except as regards a trust estate."

Grant of representation to a trust corporation.

3.—(1) The following paragraph shall be inserted at the end of subsection (5) of section one hundred and fifty-seven of the principal Act :—

"This subsection does not apply to securities registered or inscribed in the name of a syndic, or to land or a charge registered under the Land Transfer Acts, in the name of a syndic, but such securities, land or charge shall be transferred by the syndic to the corporation or as the corporation may direct."

(2) At the end of the said section the following words shall be inserted :—

"and no such vesting or transfer as aforesaid shall operate as a breach of a covenant or condition against alienation or give rise to a forfeiture."

Administration granted to nominee of the Crown.

4. The following subsections shall be inserted at the end of section two of the Intestates Estates Act, 1884 :—

"(2) The Treasury Solicitor shall not be required when applying for or obtaining administration of the estate of a deceased person for the use or benefit of His Majesty, to deliver, nor shall the Probate, Divorce and Admiralty Division of the High Court or the Commissioners of Inland Revenue be entitled to receive in connexion with any such application or grant of administration any affidavit, statutory declaration, account, certificate, or other statement verified on oath; but the Treasury Solicitor shall deliver and the said Division and Commissioners respectively shall accept, in lieu thereof, an account or particulars of the estate of the deceased signed by or on behalf of the Treasury Solicitor.

"(3) References in sections two, four, six and seven of the Treasury Solicitor Act, 1876, and in subsection (3) of section three of the Duchy of Lancaster Act, 1920, to "personal estate" shall include real estate."

Assent by personal representatives.

5. The following section shall be substituted for section one hundred and fifty-eight of the principal Act :—

"158.—(1) A personal representative may assent to the vesting in any person who (whether by devise, bequest;

7TH SCH. —*cont.*

devolution, appropriation or otherwise) may be entitled thereto, either beneficially or as a trustee or personal representative of any estate or interest in real estate to which the testator or intestate was entitled or over which he exercised a general power of appointment by his will (including the statutory power to dispose of entailed interests), and which devolved upon the personal representative.

"(2) The assent shall operate to vest in that person the estate or interest to which the assent relates, and, unless a contrary intention appears, the assent shall relate back to the death of the deceased.

"(3) The statutory covenants implied by a person being expressed to convey as personal representative, may be implied in an assent in like manner as in a conveyance by deed.

"(4) An assent to the vesting of a legal estate shall be in writing, signed by the personal representative, and shall name the person in whose favour it is given and shall operate to vest in that person the legal estate to which it relates; and an assent not in writing or not in favour of a named person shall not be effectual to pass a legal estate.

"(5) Any person in whose favour an assent or conveyance of a legal estate is made by a personal representative may require that notice of the assent or conveyance be written or endorsed on or permanently annexed to the probate or letters of administration, at the cost of the estate of the deceased, and that the probate or letters of administration be produced, at the like cost, to prove that the notice has been placed thereon or annexed thereto.

"(6) A statement in writing by a personal representative that he has not given or made an assent or conveyance in respect of a legal estate, shall, in favour of a purchaser (but without prejudice to any previous disposition made in favour of another purchaser deriving title mediately or immediately under the personal representative), be sufficient evidence that an assent or conveyance has not been given or made in respect of the legal estate to which the statement relates, unless notice of a previous assent or conveyance affecting that estate has been placed on or annexed to the probate or administration.

"A conveyance by a personal representative of a legal estate to a purchaser accepted on the faith of such a statement shall (without prejudice as aforesaid and unless notice of a previous assent or conveyance affecting that estate has

7th Sch. —*cont.*

been placed on or annexed to the probate or administration) operate to transfer or create the legal estate expressed to be conveyed in like manner as if no previous assent or conveyance had been made by the personal representative.

" A personal representative making a false statement, in regard to any such matter shall be liable in like manner as if the statement had been contained in a statutory declaration.

" (7) An assent or conveyance by a personal representative in respect of a legal estate shall, in favour of a purchaser, unless notice of a previous assent or conveyance affecting that legal estate has been placed on or annexed to the probate or administration, be taken as sufficient evidence that the person in whose favour the assent or conveyance is given or made is the person entitled to have the legal estate conveyed to him, and upon the proper trusts (if any), but shall not otherwise prejudicially affect the claim of any person rightfully entitled to the estate vested or conveyed or any charge thereon.

" (8) A conveyance of a legal estate by a personal representative to a purchaser shall not be invalidated by reason only that the purchaser may have notice that all the debts, liabilities, funeral, and testamentary or administration expenses, duties, and legacies of the deceased have been discharged or provided for.

" (9) An assent or conveyance given or made by a personal representative shall not, except in favour of a purchaser of a legal estate, prejudice the right of the personal representative or any other person to recover the estate or interest to which the assent or conveyance relates, or to be indemnified out of such estate or interest against any duties, debt, or liability to which such estate or interest would have been subject if there had not been any assent or conveyance.

" (10) A personal representative may, as a condition of giving an assent or making a conveyance, require security for the discharge of any such duties, debt, or liability, but shall not be entitled to postpone the giving of an assent merely by reason of the subsistence of any such duties, debt or liability if reasonable arrangements have been made for discharging the same; and an assent may be given subject to any legal estate or charge by way of legal mortgage.

" (11) Nothing in this section shall impose any stamp duty in respect of an assent.

" (12) In this section " purchaser " means a purchaser for money or money's worth.

7TH SCH. —*cont.*

"(13) This section applies to assents and conveyances made after the commencement of this Act, whether the testator or intestate died before or after such commencement."

Construction of documents.

6. The following paragraphs shall be respectively substituted for paragraphs (*a*) and (*c*) of subsection (3) of section one hundred and fifty of the principal Act :—

"(*a*) references to any Statutes of Distribution in an instrument inter vivos made or in a will coming into operation after the commencement of this Act, shall be construed as references to this Part of this Act; and references in such an instrument or will to statutory next of kin shall be construed, unless the context otherwise requires, as referring to the persons who would take beneficially on an intestacy under the foregoing provisions of this Part of this Act ;

"(*c*) trusts declared in an instrument inter vivos made, or in a will coming into operation, before the commencement of this Act by reference to the Statutes of Distribution, shall, unless the contrary thereby appears, be construed as referring to the enactments (other than the Intestates' Estates Act, 1890) relating to the distribution of effects of intestates which were in force immediately before the commencement of this Act."

Death duties.

7. The words "or alter the incidence of death duties" shall be inserted at the end of section one hundred and fifty-three of the principal Act.

PART II.

PROVISIONS FACILITATING CONSOLIDATION OF THE LAW RELATING TO ADMINISTRATION OF ESTATES.

Demise of the Crown.

1. Subsection (5) of section one hundred and fifty-five of the principal Act applies on the demise of the Crown as respects all property real and personal vested in the Crown as a corporation sole.

Executor of executor represents original testator.

2. The statute 25 Edw. 3, St. 5, c. 5, and section sixteen of the Court of Probate Act, 1858, are hereby repealed, and in lieu thereof the following provisions shall have effect :—

"(1) An executor of a sole or last surviving executor of a testator shall be the executor of that testator.

"This provision shall not apply to an executor who does not prove the will of his testator, and, in the case of an executor who on his death leaves surviving him some other

executor of his testator who afterwards proves the will of that testator, it shall cease to apply on probate being granted to that other executor. 7th Sch. —*cont.*

"(2) So long as the chain of representation is unbroken the last executor in the chain shall be the executor of every preceding testator.

"(3) The chain of representation shall be broken by—

"(*a*) an intestacy; or

"(*b*) the failure of a testator to appoint an executor; or

"(*c*) the failure to obtain probate of a will;

but shall not be broken by a temporary grant of administration if probate is subsequently granted.

"(4) Every person in the chain of representation to a testator—

"(*a*) shall have the same rights in respect of the real and personal estate of that testator as the original executor would have had if living;

"(*b*) shall, to the extent to which the real and personal estate of that testator has come to his hands, be answerable as if he were an original executor."

Discretion of court.

3. The following proviso shall be inserted at the end of subsection (8) of section one hundred and fifty-six of the principal Act—

"Provided that where the deceased died wholly intestate as to his real and personal estate administration shall—

"(*a*) unless by reason of the insolvency of the estate or other special circumstances the court thinks it expedient to grant administration to some other person, be granted to some one or more of the persons interested under this Act in the residuary estate of the deceased, if an application is made for the purpose;

"(*b*) in regard to land settled previously to the death of the deceased, be granted to the trustees, if any, of the settlement if willing to act."

Special representation as respects settled land.

4. The following subsections shall be substituted for subsections (1) and (2) of section one hundred and sixty-one of the principal Act:—

"(1) Where settled land becomes vested in a personal representative, not being a trustee of the settlement, upon trust to convey the land to or assent to the land vesting

7TH SCH. —*cont.*

in the tenant for life or statutory owner in order to give effect to a settlement created before the death of the deceased and not by his will, or would, on the grant of representation to him, have become so vested, such representative may—

"(*a*) before representation has been granted, renounce his office in regard only to such settled land without renouncing in regard to other property;

"(*b*) after representation has been granted, apply to the court for revocation of the grant in regard to the settled land without applying in regard to other property.

"(2) Whether such renunciation or revocation is made or not, the trustees of the settlement, or any person beneficially interested thereunder, may apply to the High Court for an order appointing a special or additional personal representative in respect of the settled land; and a special or additional personal representative, if and when appointed under the order, shall be in the same position as if representation had originally been granted to him alone in place of the original personal representative, if any, or to him jointly with the original personal representative, as the case may be, limited to the settled land, but without prejudice to any previous acts and dealings of and notices to the personal representative originally constituted."

Liability for fraudulently obtaining or retaining estate.

5. The statute (43 Eliz., c. 8) relating to the liability for fraudulently obtaining or retaining the estate of a deceased person shall be read as follows:—

"If any person, to the defrauding of creditors or without full valuable consideration, obtains, receives or holds any real or personal estate of a deceased person or the release of any debt or liability due to the estate of the deceased, he shall be charged as executor in his own wrong to the extent of the real and personal estate received or coming to his hands, or the debt or liability released, after deducting—

"(*a*) any debt for valuable consideration and without fraud due to him from the deceased person at the time of his death;

"(*b*) any payment made by him which might properly be made by a personal representative."

6. The following section shall be substituted for section one hundred and forty-seven of the principal Act:—

Trust for sale.

"147.—(1) On the death of a person intestate as to any real or personal estate, such estate shall be held by his personal representatives—

"(*a*) as to the real estate upon trust for sale; and

7th Sch. —*cont.*

"(*b*) as to the personal estate upon trust to call in sell and convert into money such part thereof as may not consist of money;

with power to postpone sale and conversion for such a period as the personal representatives, without being liable to account, may think proper, and so that any reversionary interest shall not be sold until it falls into possession, unless the personal representatives see special reason for sale; and so also that, unless required for purposes of administration owing to want of other assets, personal chattels shall not be sold except for special reason.

"(2) Out of the net money to arise from the sale and conversion of the real and personal estate (after payment of costs), and out of the ready money of the deceased (so far as not disposed of by will), the personal representative shall pay all such funeral, testamentary and administration expenses, debts and other liabilities as are properly payable thereout having regard to the statutory rules of administration, and out of the residue of the said money the personal representative shall set aside a fund sufficient to provide for any pecuniary legacies bequeathed by the will (if any) of the deceased.

"(3) During the minority of any beneficiary or the subsistence of any life interest and pending the distribution of the whole or any part of the estate of the deceased, the personal representatives may invest the residue of the said money, or so much thereof as may not have been distributed, in any investments for the time being authorised by statute for the investment of trust money, with power, at the discretion of the personal representatives, to change such investments for others of a like nature.

"(4) The residue of the said money and any investments for the time being representing the same, including (but without prejudice to the trust for sale) any part of the estate of the deceased which may be retained unsold and is not required for the administration purposes aforesaid, is, in this Act, referred to as "the residuary estate of the intestate."

"(5) The income, including net rents and profits of real estate and chattels real after payment of rates, taxes, rent, costs of insurance, repairs and other out-goings properly attributable to income, of so much of the real and personal estate of the deceased as may not be disposed of by his will, if any, or may not be required for the administration purposes aforesaid, may, however such estate is invested, as from the death of the deceased, be treated and applied as income, and for that purpose

7TH SCH. —*cont.*

any necessary apportionment may be made between tenant for life and remainderman.

"(6) Nothing in this section shall affect the rights of any creditor of the deceased or the rights of the Crown in respect of death duties.

"(7) Where the deceased leaves a will, this section shall have effect subject to the provisions therein contained."

Order of administration of assets.

7. Section one of the Administration of Estates Act, 1869, and section ten of the Judicature Act, 1875, as amended by subsection (10) of section one hundred and fifty-six of the principal Act are hereby repealed and the following provisions shall have effect in lieu thereof:—

"(1) Where the estate of a deceased person is insolvent, his real and personal estate shall be administered in accordance with the rules set out in Part I. of the following table and all other rules of administration of assets are abolished.

"(2) The right of retainer of a personal representative and his right to prefer creditors may be exercised in respect of all assets, but the right of retainer shall only apply to debts owing to the personal representative in his own right whether solely or jointly with another person.

"Subject as aforesaid, nothing in the foregoing provisions shall affect the right of retainer of a personal representative, or his right to prefer creditors.

"(3) Where the estate of a deceased person is solvent his real and personal estate shall, subject to rules of court and the statutory provisions as to charges on property of the deceased, and to the provisions (if any) contained in his will, be applicable towards the discharge of the funeral, testamentary and administration expenses, debts and liabilities payable thereout in the order mentioned in Part II. of the following table:—

THE TABLE above referred to.

PART I.

RULES AS TO PAYMENT OF DEBTS WHERE THE ESTATE IS INSOLVENT.

1. The funeral, testamentary, and administration expenses have priority.

2. Subject as aforesaid, the same rules shall prevail and be observed as to the respective rights of secured and unsecured creditors and as to debts and liabilities provable and as to the

valuation of annuities and future and contingent liabilities respectively, and as to the priorities of debts and liabilities, as may be in force for the time being under the law of bankruptcy with respect to the assets of persons adjudged bankrupt. 7th Sch. —*cont.*

Part II.

Order of application of Assets where the Estate is Solvent.

(1) Property of the deceased undisposed of by will, subject to the retention thereout of a fund sufficient to meet any pecuniary legacies.

(2) Property of the deceased not specifically devised or bequeathed but included (either by a specific or general description) in a residuary gift, subject to the retention out of such property of a fund sufficient to meet any pecuniary legacies, so far as not provided for as aforesaid.

(3) Property of the deceased specifically appropriated or devised or bequeathed (either by a specific or general description) for the payment of debts.

(4) Property of the deceased charged with, or devised or bequeathed (either by a specific or general description) subject to a charge for the payment of debts.

(5) The fund (if any) retained to meet pecuniary legacies.

(6) Property specifically devised or bequeathed rateably according to value.

(7) Property appointed by will under a general power, including the statutory power to dispose of entailed interests, rateably according to value.

(8) The following provisions shall also apply—

(*a*) The order of application may be varied by the will of the deceased.

(*b*) This part of the Table does not affect the liability of land to answer the death duty imposed thereon in exoneration of other assets.

Charges on property of deceased.

8. The Real Estate Charges Acts, 1854, 1867 and 1877 are hereby repealed, and in lieu thereof the following provisions shall have effect :—

"(1) Where a person dies possessed of, or entitled to, or under a general power of appointment (including the statutory power to dispose of entailed interests) by his will disposes of, an interest in property which at the time of his

7TH SCH. —*cont.*

death is charged with the payment of money, whether by way of legal mortgage, equitable charge or otherwise (including a lien for unpaid purchase money), and the deceased has not by will, deed or other document signified a contrary or other intention, the interest so charged shall, as between the different persons claiming through the deceased, be primarily liable for the payment of the charge; and every part of the said interest, according to its value, shall bear a proportionate part of the charge on the whole thereof.

"(2) Such contrary or other intention shall not be deemed to be signified—

(*a*) by a general direction for the payment of debts or of all the debts of the testator out of his personal estate, or his residuary real and personal estate, or his residuary real estate; or

(*b*) by a charge of the debts upon any such estate,

unless such intention is further signified by words expressly or by necessary implication referring to all or some part of the charge.

"(3) Nothing in the foregoing provisions shall affect the right of a person entitled to the charge to obtain payment or satisfaction thereof either out of the other assets of the deceased or otherwise."

The right to follow property and powers of the court in relation thereto.

9. The enactments relating to the right to follow property and for enabling effect to be given to the rights of creditors and other persons interested shall be read as follows:—

"(1) An assent or conveyance by a personal representative to a person other than a purchaser does not prejudice the rights of any person to follow the property to which the assent or conveyance relates, or any property representing the same, into the hands of the person in whom it is vested by the assent or conveyance, or of any other person (not being a purchaser) who may have received the same or in whom it may be vested.

"(2) Notwithstanding any such assent or conveyance the court may, on the application of any creditor or other person interested—

"(*a*) order a sale, exchange, mortgage, charge, lease, payment, transfer or other transaction to be carried out which the court considers requisite for the purpose of giving effect to the rights of the persons interested;

"(*b*) declare that the person, not being a purchaser, in whom the property is vested is a trustee for those purposes;

7th Sch. —*cont.*

"(*c*) give directions respecting the preparation and execution of any conveyance or other instrument or as to any other matter required for giving effect to the order;

"(*d*) make any vesting order, or appoint a person to convey in accordance with the provisions of the Trustee Acts.

"(3) Nothing in the foregoing provisions shall prejudice the rights of a purchaser or a person deriving title under him, but the said provisions shall apply whether the testator or intestate died before or after the commencement of the principal Act."

Power of appropriation.

10.—(1) The following paragraphs shall respectively be substituted for paragraphs (i), (ii) and (v) of subsection (1) of section one hundred and sixty of the principal Act:—

"(i) An appropriation shall not be made under this section so as to affect prejudicially any specific devise or bequest."

"(ii) An appropriation of property, whether or not being an investment authorised by law or by the will (if any) of the deceased for the investment of money subject to the trust, shall not (save as hereinafter mentioned) be made under this section except with the following consents:—

"(*a*) When made for the benefit of a person absolutely and beneficially entitled in possession, the consent of that person;

"(*b*) When made in respect of any settled legacy share or interest, the consent of either the trustee thereof, if any (not being also the personal representative), or the person who may for the time being be entitled to the income:

"Provided that, if the person whose consent is required under the foregoing provisions is an infant or a lunatic or defective, the consent shall be given on his behalf by his parents or parent or testamentary or other guardian, committee or receiver, or if in the case of an infant, there is no such parent or guardian by the court on the application of his next friend:"

"(v) If, independently of the personal representative, there is no trustee of a settled legacy share or interest, and no person of full age and capacity entitled to the income thereof, no consent shall be required to an appropriation in respect of such legacy share or interest, provided that the appropriation is of an investment authorised as aforesaid."

7TH SCH. —*cont.*

(2) The following subsections shall respectively be substituted for subsections (2) and (9) of the said section one hundred and sixty :—

" (2) For the purposes of such appropriation, the personal representative may ascertain and fix the value of the respective parts of the real and personal estate and the liabilities of the deceased as he may think fit, and shall for that purpose employ a duly qualified valuer in any case where such employment may be necessary; and may make any conveyance (including an assent) which may be requisite for giving effect to the appropriation."

" (9) This section shall apply whether the deceased died intestate or not, and whether before or after the commencement of this Act, and shall extend to property over which a testator exercises a general power of appointment, including the statutory power to dispose of entailed interests, and shall authorise the setting apart of a fund to answer an annuity by means of the income of that fund or otherwise."

Appointment of trustees of infant's property.

11. Subsection (7) of section one hundred and ten of the principal Act shall apply to a devise as well as to a bequest.

Succession.

12. (1) Nothing in section one hundred and forty-eight of the principal Act shall affect the descent or devolution of an entailed interest.

(2) In paragraph (vii) of subsection (1) of section one hundred and fifty of the principal Act after the words " Duke may " the words " without prejudice to the powers reserved by section nine of the Civil List Act, 1910, or any other powers " shall be inserted.

Lunatics and infants.

13. The following subsections shall be substituted for subsections (2) and (3) of section one hundred and fifty-four of the principal Act :—

" (2) The foregoing provisions of this Part of this Act shall not apply to any beneficial interest in real estate (not including chattels real) to which a lunatic or defective living and of full age at the commencement of this Act, and unable, by reason of his incapacity, to make a will, who thereafter dies intestate in respect of such interest without having recovered his testamentary capacity, was entitled at his death; and such beneficial interest (not being an interest ceasing on his death) shall, without prejudice to any will of the deceased, devolve in accordance with the general law in force before the commencement of this Act applicable to freehold land, and that law shall, notwithstanding any repeal, apply to the case.

" For the purposes of this subsection a lunatic or defective who dies intestate as respects any beneficial

7th Sch. —*cont.*

interest in real estate shall not be deemed to have recovered his testamentary capacity unless his committee or receiver has been discharged.

"(3) Where an infant dies after the commencement of this Act without having been married, and independently of this subsection he would, at his death, have been equitably entitled under a settlement (including a will) to a vested estate in fee simple or absolute interest in freehold land, or in any property settled to devolve therewith or as freehold land, such infant shall be deemed to have had an entailed interest, and the settlement shall be construed accordingly.

"Nothing in this Part of this Act shall affect the devolution of an entailed interest as an equitable interest."

Personal chattels.

14. In the definition of "personal chattels" in subsection (1) of section one hundred and fifty-four of the principal Act, the words "live and dead stock and" shall be omitted and the words "used at the death of the intestate" shall be substituted for the word "acquired."

Application to the Crown.

15.—(1) Part VIII. of the principal Act binds the Crown and the Duchy of Lancaster and the Duke of Cornwall for the time being as respects the estates of persons dying after the commencement of the principal Act, but not so as to affect the time within which proceedings for the recovery of real or personal estate vesting in or devolving on His Majesty in right of His Crown, or His Duchy of Lancaster, or on the Duke of Cornwall, may be instituted.

(2) Nothing in the said Part shall in any manner affect or alter the descent or devolution of any property for the time being vested in His Majesty either in right of the Crown or of the Duchy of Lancaster or of any property for the time being belonging to the Duchy of Cornwall.

EIGHTH SCHEDULE.

Section 8.

Provisions facilitating the Consolidation of the Law relating to Registration of Title to Land.

Registration of legal estates.

1. The words "for value" in section one hundred and sixty-five of the principal Act are hereby repealed.

Definitions.

2. "Registered land" in the principal Act means land or any estate or interest in land the title to which is registered under the Act of 1875 and includes any easement, right, privilege, or benefit which is appurtenant or appendant thereto, and any mines and minerals within or under the land and held therewith.

8TH SCH. —*cont.*

Power to create charges.

3. (1) The proprietor of any registered land may by deed—

(*a*) charge the registered land with the payment at an appointed time of any principal sum of money either with or without interest;

(*b*) charge the registered land in favour of a building society under the Building Societies Acts, 1874 to 1894, in accordance with the rules of that society.

(2) A charge may be in any form provided that—

(*a*) the registered land comprised in the charge is described by reference to the register or in any other manner sufficient to enable the registrar to identify the same without reference to any other document;

(*b*) the charge does not refer to any other interest or charge affecting the land which—

(i) would have priority over the same and is not registered or protected on the register;

(ii) is not an overriding interest.

(3) Any provision contained in a charge which purports to—

(i) take away from the proprietor thereof the power of transferring it by registered disposition or of requiring the cessation thereof to be noted on the register; or

(ii) affect any registered land or charge other than that in respect of which the charge is to be expressly registered;

shall be void.

(4) The foregoing provisions of this paragraph shall have effect in substitution for section twenty-two of the Act of 1875.

Operation of charges.

4. The provisions of section one hundred and sixty-seven of the principal Act relating to the operation of charges shall be read as follows:—

"(1) A registered charge shall, unless made or taking effect by demise or sub-demise, and subject to any provision to the contrary contained in the charge, take effect as a charge by way of legal mortgage.

"(2) Subject to the provisions of this Act, a registered charge may contain in the case of freehold land, an express demise, and in the case of leasehold land an express sub-demise of the land to the creditor for a term of years absolute, subject to a proviso for cesser on redemption.

"(3) Any such demise or subdemise or charge by way of legal mortgage shall take effect from the date of the delivery of the deed containing the same, but subject to the estate or interest of any person (other than the proprietor of

8th Sch. —*cont.*

the land) whose estate or interest (whenever created) is registered or noted on the register before the date of registration of the charge.

"(4) Any charge registered before the commencement of this Act shall take effect as a demise or subdemise of the land in accordance with the provisions of this Act, and the registered estate shall (without prejudice to any registered charge or any term or subterm created by a charge or by statute) vest in the person appearing by the register to be entitled to the ultimate equity of redemption."

Implied covenant to pay and powers of chargees.

5.—(1) The words "as well after as before any judgment is obtained in respect of the charge" shall be inserted in section twenty-three of the Act of 1875 after "appointed rate."

(2) For the purposes of subsections (14) and (15) of section one hundred and sixty-seven of the principal Act, an incumbrance or entry on the register shall not be deemed to be inferior to the charge in right of which title is made if the incumbrance or other interest is given the requisite priority by statute or otherwise.

Restrictive covenants.

6. The following words shall be inserted at the end of sub-paragraph (6) of paragraph 21 of Part I. of the Sixteenth Schedule to the principal Act—

"This provision shall authorise the proprietor in reference to the registered land to give any licence, consent or approval which a tenant for life is by the Settled Land Acts authorised to give in reference to settled land."

Transmissions on bankruptcy.

7. The following section shall be substituted for section forty-three of the Act of 1875:—

"43. Upon the bankruptcy of the proprietor of any registered land or charge, his trustee shall, on the production of the prescribed evidence to be furnished by the official receiver or trustee in bankruptcy that the estate or charge is part of the property of the bankrupt divisible amongst his creditors, be entitled to be registered as proprietor in his place. The official receiver shall be entitled to be registered pending the appointment of a trustee."

Registration of notices of leases.

8. The following provision shall be inserted at the end of section fifty-one of the Act of 1875—

"Provided that where the lease is binding on the proprietor of the land neither the consent of such proprietor nor an order of the court shall be required."

Restrictions.

9. The following subsections shall be inserted at the end of section fifty-eight of the Act of 1875:—

"(2) In the case of joint proprietors the restriction may be to the effect that when the number of proprietors is

8TH SCH. —*cont.*

reduced below a specified number, no disposition shall be registered except under an order of the court, or of the registrar after inquiry into title, subject to appeal to the court; and, subject to general rules, such an entry under this subsection as may be prescribed shall be obligatory unless it is shown to the registrar's satisfaction that the joint proprietors are entitled for their own benefit, or can give valid receipts for capital money, or that one of them is a trust corporation."

"(3) Rules may be made to enable applications to be made for the entry of restrictions by persons other than the proprietor."

Pending actions, &c.

10.—(1) The following article shall be substituted for article (iv) of sub-paragraph (2) of paragraph 20 of Part I. of the Sixteenth Schedule to the principal Act:—

"(iv) The foregoing provisions shall apply only to writs and orders, deeds of arrangement, pending actions and land charges which if the land were unregistered would for purposes of protection be required to be registered or re-registered after the commencement of this Act under the Land Charges Acts and for the purposes of this paragraph a land charge does not include a puisne mortgage or an Inland Revenue charge."

(2) In sub-paragraph (1) of the said paragraph 20 the words "and to the title of the trustee in bankruptcy" shall be inserted after "fraud."

Notice of incumbrances registered under the Companies Act.

11. The following paragraph shall be inserted at the end of the Sixteenth Schedule to the principal Act:—

"12.—(1) Where a company, registered under the Companies (Consolidation) Act, 1908, is registered as proprietor of any estate or charge already registered, the registrar shall not be concerned with any mortgage, charge, debenture, debenture stock, trust deed for securing the same, or other incumbrance created or issued by the company, whether or not registered under that Act, unless it is registered or protected by caution or otherwise under the Act of 1875.

"(2) No indemnity shall be payable under the Land Transfer Acts by reason of a purchaser acquiring any interest under a registered disposition from the company free from any such incumbrance."

12.—(1) In subsection (4) of section one hundred and seventy-nine of the principal Act, the words "but without prejudice to "dealings with or in right of interests or charges having priority "over the estate or charge of the bankrupt proprietor" shall be inserted after "bankruptcy inhibition."

8th Sch. —*cont.*

(2) In subsection (7) of the same section the word "petition" shall be omitted, and at the end of that subsection the words "Nothing in this section shall impose on a purchaser a liability "to make any search under the Land Charges Acts" shall be inserted.

Production of certificates.

13. The following sub-paragraph shall be inserted at the end of sub-paragraph (2) of paragraph 7 of Part II. of the Sixteenth Schedule to the principal Act.

"(2A) The registrar shall have the same powers of compelling the production of certificates as are conferred on him as to the production of maps and other documents."

Effect of registration on the legal estate.

14. The following subsection shall be substituted for subsections (2) and (3) of section one hundred and seventy of the principal Act:—

"(2) The proprietor of land, whether he was registered before or after the commencement of this Act, shall be deemed to have vested in him without any conveyance, where the registered land is freehold, the legal estate in fee simple in possession, and where the registered land is leasehold the legal term created by the registered lease, but subject to the overriding interests, if any, including any mortgage term or charge by way of legal mortgage created by or under this Act, or otherwise which has priority to the registered estate."

Undivided shares.

15. The following section shall be substituted for subsections (1), (2) and (4) of section one hundred and sixty-four of the principal Act:—

"164.—(1) Where in the case of land belonging to persons in undivided shares the entirety of the land is registered at the commencement of this Act, and the persons entitled to the several undivided shares are registered as proprietors, the registrar shall, on the occasion of the first dealing affecting the title after the commencement of this Act, rectify the register by entering as the proprietors of the entirety of the land the persons in whom the legal estate therein has become vested by virtue of this Act, and it shall be the duty of the persons registered as the proprietors of the undivided shares in the land to furnish to the registrar such evidence as he may require to enable him to ascertain the persons in whom such legal estate has become so vested as aforesaid.

"(2) Where at the commencement of this Act the title to an undivided share in land is registered but the entirety of the land is not registered, the registrar may, at any time, after giving notice to the proprietor and to

8TH SCH. —*cont.*

the other persons (if any) who appear by the register to be interested therein, remove from the register the title to the undivided share, and such removal shall have the like effect as if it had been effected by the proprietor with the assent of such other persons as aforesaid in pursuance of the power in that behalf contained in the Act of 1897:

"Provided that, if within one year from the commencement of this Act or such extended time as the registrar may allow, and before the removal of the undivided share from the register in manner aforesaid, the persons in whom the legal estate of the entirety of the land is vested by virtue of this Act, or any persons interested in more than an undivided half of the land or the income thereof, make an application in the prescribed manner for the purpose and furnish the prescribed evidence, the registrar shall, without charging any fee, register the persons in whom such legal estate is so vested as proprietors of that estate, subject to any incumbrance capable of registration affecting the entirety of the land, but free from any charge or incumbrance (whether formerly registered or not) affecting an undivided share, and when the title to the entirety of the land is so registered, the title to the undivided share shall be closed.

"(3) If the person in whom the legal estate in the entirety of the land is so vested is the Public Trustee, he shall not be registered as proprietor pursuant to this section unless and until he has been duly requested to act in accordance with this Act, and has accepted the trust.

"(4) After the commencement of this Act, no entry other than a caution against dealings with the entirety shall be made in the register as respects the title to an undivided share in land."

Rectification.

16. The following paragraphs shall be substituted for paragraphs (*c*) and (*d*) of subsection (1) of section one hundred and seventy-four of the principal Act:—

"(*c*) Where the court or the registrar is satisfied that any entry in the register has been obtained by fraud;

"(*d*) Where two or more persons are, by mistake, registered as proprietors of the same registered estate or of the same charge;

"(*e*) Where a mortgagee has been registered as proprietor of the land instead of as proprietor of a charge and a right of redemption is subsisting;

"(*f*) Where a legal estate has been registered in the name of a person who if the land had not been registered would not have been the estate owner."

17. The following section shall be substituted for section sixty-six of the Act of 1875 :— 8th Sch. —*cont.*

" 66.—(1) If it appears to the registrar that any land, application for registration whereof is made to him, comprises foreshore, he shall not register an estate in the land unless and until he is satisfied that at least one month's notice in writing of the application has been given to the Board of Trade, and— Foreshore.

(*a*) in case of land in the county palatine of Lancaster, also to the proper officer of the Duchy of Lancaster; and

(*b*) in case of land in the counties of Cornwall or Devon, also to the proper officer of the Duke of Cornwall; and

(*c*) in the case of land within the jurisdiction of the Port of London Authority, also to that authority; and

(*d*) in all other cases, also to the Commissioners of Woods.

(2) This section shall not apply to the registration of an estate with a possessory title or with a good leasehold title."

18. The following paragraph shall be inserted at the end of the Sixteenth Schedule to the principal Act :— Charitable trusts.

" 13. Where an application is made to register a legal estate in land subject to charitable trusts and that estate is vested in the official trustee of charity lands, he shall, notwithstanding that the powers of disposition are vested in the managing trustees or committee, be registered as proprietor thereof."

19. Subsection (2) of section thirteen of the Small Holdings and Allotments Act, 1908, is hereby repealed, and the following provisions shall have effect in lieu thereof and shall be construed with the Land Transfer Acts :— Small holdings.

" (1) Where a county council apply in pursuance of the Small Holdings and Allotments Act, 1908, for registration as proprietors, they may be registered as proprietors with any such title as is authorised by the Land Transfer Acts.

" (2) Where a county council, after having been so registered, dispose of any interest in the land for the purposes of a small holding to a purchaser or lessee he shall be registered as proprietor of the interest transferred or created (being an interest capable of registration) with an absolute title, subject only to such incumbrances as may be created under the Small Holdings and Allotments Act, 1908, but

8TH SCH. —*cont.*

freed from all other liabilities not being overriding interests, and in any such case the remedy of any person claiming by title paramount to the county council in respect either of title or incumbrances shall be in damages only, and such damages shall be recoverable against the county council.

" (3) Where under the powers conferred by subsection (4) of section twelve of the said Act, a county council by notice require registered land to be sold to themselves, the council shall, after such date as may be specified by the notice mentioned in that subsection and on production to the registrar of evidence—

" (*a*) of service of such notice; and

" (*b*) of the payment of the sum agreed or determined in manner provided by that subsection or of the tender of such payment;

be registered as the proprietors of the land in place of the proprietor, and such registration shall operate as a registration on a transfer for valuable consideration under the Act of 1875 as amended.

" (4) Rules under the Land Transfer Acts may—

" (*a*) adapt the Land Transfer Acts to the registration of small holdings with such modifications as appear to be required; and

" (*b*) on the application and at the expense of a county council provide by the appointment of local agents or otherwise for the carrying into effect of the objects of this section; and

" (*c*) enable the registrar to obtain production of the land certificate.

" (5) For the purposes of the foregoing provisions the expression " county council " includes " county borough council."

Minor interests.

20. The following sub-paragraph shall be substituted for sub-paragraph (9) of paragraph 12 of Part I. of the Sixteenth Schedule to the principal Act :—

" (9) Where by the operation of any statute or statutory or other power, or by virtue of any vesting order of any court or other competent authority, or an order appointing a person to convey, or of a vesting declaration (express or implied) or of an appointment or other assurance, a minor interest in the registered land, is disposed of or created which would, if registered, be capable of taking effect as a legal estate or charge by way of legal mortgage, then—

" (i) if the estate owner would, had the land not been registered, have been bound to give

8TH SCH. —*cont.*

effect thereto by conveying or creating a legal estate or charge by way of legal mortgage, the proprietor shall, subject to proper provision being made for payment of costs, be bound to give legal effect to the transaction by a registered disposition;

" (ii) If the proprietor is unable or refuses to make the requisite disposition or cannot be found, or if for any other reason a disposition by him cannot be obtained within a reasonable time, or if, had the land not been registered, no conveyance by the estate owner would have been required to give legal effect to the transaction, the registrar shall give effect thereto in the prescribed manner in like manner and with the like consequences as if the transaction had been carried out by a registered disposition:

" Provided that—

" (*a*) So long as the proprietor has power under the Settled Land Acts, or any other statute conferring special powers on a tenant for life or statutory owner, or under the settlement, to override the minor interest so disposed of or created, no estate or charge shall be registered which would prejudicially affect any such powers;

" (*b*) So long as the proprietor holds the land on trust for sale, no estate or charge shall be registered in respect of an interest which, under this Act, or otherwise, ought to remain liable to be overridden on the execution of the trust for sale;

" (*c*) Nothing in this subsection shall impose on a proprietor an obligation to make a disposition unless the person requiring the disposition to be made has a right in equity to call for the same;

" (*d*) Nothing in this subsection shall prejudicially affect the rights of a personal representative in relation to the administration of the estate of the deceased.

" On every alteration in the register made pursuant to this section the land certificate and any charge certificate which may be affected shall be produced to the registrar unless an order to the contrary is made by him."

8TH SCH. —*cont.*

Mortgages protected on the register.

21. The following subsections shall be substituted respectively for subsections (1) and (5) of section one hundred and sixty-eight of the principal Act :—

"(1) The proprietor of any registered land may, subject to any entry to the contrary on the register, mortgage, by deed or otherwise, the land or any part thereof in any manner which would have been permissible if the land had not been registered and with the like effect :

"Provided that the registered land comprised in the mortgage is described (whether by reference to the register or in any other manner) in such a way as is sufficient to enable the registrar to identify the same without reference to any other document."

"(5) Where a mortgage by deed has been protected by a caution in the specially prescribed form, the mortgagee, or the persons deriving title under him, may, subject to furnishing sufficient evidence of title, and notwithstanding that any interest or charge affecting the land not registered or protected on the register which has priority to the mortgage is disclosed, require the mortgage to be registered as a charge with the same priority as the caution.

"Neither the registrar or any person interested under a registered disposition shall be affected with notice of any such interest or charge so disclosed."

Vendor and purchaser.

22. The following paragraph shall be inserted at the end of subsection (1) of section one hundred and seventy-seven of the principal Act—

"(*e*) The purchaser shall not, by reason of the registration, be affected with notice of any pending action, writ, order, deed of arrangement or land charge (other than a local land charge) to which this paragraph applies, which can be protected under the Act of 1875 (as amended) by lodging or registering a creditor's notice, inhibition, caution or other notice, or be concerned to make any search therefor if and so far as they effect registered land.

"This paragraph applies only to pending actions, writs, orders, deeds of arrangement and land charges (not including local land charges) required to be registered or re-registered after the commencement of this Act, either under the Land Charges Acts or any other statute registration whereunder has effect as if made under those Acts."

Infants.

23. After the words "deposited at the registry" in sub-paragraph (2) of paragraph 23 of Part I. of the Sixteenth Schedule to the principal Act the words " and shall, unless and until the " tenant for life, statutory owners, personal representatives or " trustees for sale are registered as proprietors be protected by " means of a restriction or otherwise on the register" shall be inserted.

8th Sch. —*cont.*

24. In sections ninety-nine and one hundred of the Act of 1875 the following words shall be inserted after the words "five hundred pounds" :— Misdemeanors.

"or on summary conviction, be liable to imprisonment for a term not exceeding three months or to a fine not exceeding one hundred pounds or to both such imprisonment and fine."

25. The provisions of the Act of 1897 (as amended) relating to compulsory registration of title on sale shall bind the Crown as respects transactions completed after the commencement of the principal Act. Compulsory areas and the Crown.

26. The following words shall be inserted at the end of section one hundred and six of the Act of 1875 :— Duties of officers.

"Subject to such regulations, anything authorised or required by this Act to be done to or by the registrar, may or shall be done to or by the Chief Land Registrar."

27. The following words shall be inserted at the end of section one hundred and seven of the Act of 1875 :— Seal. [8 & 9 Vict. c. 113, s. 1.]

"There shall continue to be a seal of the land registry and any document purporting to be sealed with that seal shall be received in evidence without further proof."

28. The following paragraph shall be substituted for paragraph (ii) of subsection (6) of section twenty-two of the Act of 1897 :— Rules.

"(ii) For enabling cautions to be entered against the registration of possessory and qualified titles as qualified, good leasehold, or absolute or against the registration of a good leasehold title as absolute."

29. The following sub-paragraphs shall be inserted at the end of paragraph 25 of Part I. of the Sixteenth Schedule to the principal Act :— Further rules.

"(*o*) For prescribing the procedure to be adopted when land is or becomes subject to any charitable, ecclesiastical or public trusts;

"(*p*) For prescribing any consents to be given before a title to such land is registered;

"(*q*) For prescribing the duties, if any, to be performed by the managing trustees or committee;

"(*r*) For prescribing the restrictions, if any, to be entered on the register in regard to such land; and

"(*s*) For enabling entries to be made in the register on the surrender, extinguishment or discharge of any subsisting interest without previously registering the title to the interest which is merged or extinguished."

Section 9.

NINTH SCHEDULE.

Enactments affected.	How affected on the commencement of the principal Act.
1. The Inheritance Act, 1833, as amended by section nineteen of the Law of Property Amendment Act, 1859.	1. Remains in force for the purpose (so far as applicable) of ascertaining the devolution of entailed interests as equitable interests, and of ascertaining the persons who are to take equitable interests as heirs by purchase, but in other respects ceases to apply (save in the case of a lunatic or defective provided for by the principal Act) on intestacies.
2. The Lands Clauses Acts and other statutes giving powers to make title in case of persons under disability.	2. Take effect as if the references to the disabilities which have been removed had been omitted.
3. The Wills Act, 1837.	3. Takes effect to enable equitable interests to be disposed of subject and without prejudice to the estate and powers of a personal representative.
4. The Fines and Recoveries Act, 1833, as amended.	4. Remains in force in regard to dealings with entailed interests as equitable interests.
5. The Small Dwellings Acquisition Act, 1899, and other statutes prescribing the mode of effecting mortgages of land.	5. Take effect as if the modes prescribed were by charge by way of legal mortgage or by demise or subdemise, but without prejudice to any statutory power to effect mortgages by deposit of documents.
6. All previous statutory provisions relating to the disposition of copyhold or customary lands.	6. Become obsolete.
7. All statutory provisions requiring a remainderman or reversioner to concur in a conveyance by a tenant for life or statutory owner of settled land.	7. Are inoperative as respects the transfer or creation of a legal estate; a consent in writing by the remainderman or reversioner shall be a sufficient compliance with the statutory provision.

TENTH SCHEDULE.

Section 10.

ENACTMENTS REPEALED.

Session and Chapter.	Title or Short Title.	Extent of Repeal.
27 Hen. 8. c. 16.	An Acte concȳnyng enrolmentes of bargaines & contractes of Landes & Tenementes.	The whole Act.
31 Hen. 8. c. 1.	An Acte for joynt Tenaⁿtȼ & Tenaⁿtȼ in comon.	The whole Act.
32 Hen. 8. c. 28.	An Acte that Lesez may enjoy their fermes.	The whole Act.
32 Hen. 8. c. 32.	Joinctenauntȼ for lif or yeres.	The whole Act.
34 & 35 Hen. 8. c. 20.	An Acte to embarre fayned recoveries of Landes wherein the Kinges Majestie is in reverc̄on.	The whole Act.
5 Eliz. c. 26 -	An Acte for thenrollemᵗ of Indentures of Bargayne and Sale in the Quenes Maᵗᵉˢ Courtes.	The whole Act.
13 Eliz. c. 4. -	An Acte to make the Landes Tenem̃tes Goodes and Cattalles of Tellers Receavers, etc., lyable to the payment of their Debtes.	The whole Act.
27 Eliz. c. 3. -	An Act for the explanacion of the Statute made Anno xiij of the Queenes Majesties Reigne intituled, An Act to make the Landes Tenementes Goodes and Chattels of Tellors Receivors, etc., liable to the paiment of their Debtes.	The whole Act.

10TH SCH. —*cont.*

Session and Chapter.	Title or Short Title.	Extent of Repeal.
10 Will. 3. c. 22.	An Act to enable Posthumus Children to take Estates as if born in their Fathers Life time.	The whole Act.
4 & 5 Anne c. 3.	An Act for the Amendment of the Law and the better Advancement of Justice.	Sections twenty-one and twenty-seven.
10 Anne c. 28.	The Pleading Act, 1711.	The whole Act.
13 Anne c. 6.	The Mortuaries (Bangor, etc.) Abolition Act, 1713.	The whole Act.
25 Geo. 2. c. 39.	The British Subjects Act, 1751.	The whole Act.
11 Geo. 4. & 1 Will. 4. c. 65.	The Infants' Property Act, 1830.	The whole Act.
3 & 4 Will. 4. c. 74.	The Fines and Recoveries Act, 1833.	Sections two to fourteen, sixteen, eighteen, twenty-nine to thirty-one, forty-one, forty-six, fifty to fifty-four, in section fifty-eight from " and in regard to the enrolment " to " shall be effected " and sections fifty-nine, sixty-six, in section seventy-one the words " and shall in the case of " lands to be sold as " aforesaid being held by " copy of court roll " to " copyhold, and were actually purchased and " settled," from the words " which shall have no " operation under this " Act " to " after the " execution thereof," the words " and completed by " enrolment " and the words " not held by copy

10TH SCH. —*cont.*

Session and Chapter.	Title or Short Title.	Extent of Repeal.
		" of court roll," sections seventy-three, seventy-four, seventy-six, in section seventy-seven the words from " save and except " that no such disposi- " tion " to the end of that section, sections seventy-nine to ninety, and in section ninety-one the words " or of making a " surrender of lands held " by copy of court roll."
2 & 3 Vict. c. 11.	The Judgments Act, 1839	Sections ten and eleven.
8 & 9 Vict. c. 106.	The Real Property Act, 1845.	Section eight.
20 & 21 Vict. c. 57.	The Married Women's Reversionary Interests Act, 1857.	In section one the words " nor unless the deed be " acknowledged by her as " hereinafter directed " and section two.
23 & 24 Vict. c. 38.	The Law of Property Amendment Act, 1860.	The whole Act, except sections six and eight.
23 & 24 Vict. c. 127.	The Solicitors Act, 1860	In section thirty the words from " and every appoint- " ment " to " married " women under that Act " and the words " or appointment " wherever they occur, and in section thirty-one the words from " and the officer of the " Court of Common " Pleas " to " for taking " the said acknowledg- " ments " and the words " and appointments " wherever they occur.
40 & 41 Vict. c. 33.	The Contingent Remainders Act, 1877.	The whole Act.

10TH SCH. —*cont.*

Session and Chapter.	Title or Short Title.	Extent of Repeal.
42 & 43 Vict. c. 78.	The Supreme Court of Judicature (Officers) Act, 1879.	In Schedule I. the words "Registrar of Certificates of acknowledgments of deeds by married women."
44 & 45 Vict. c. 68.	The Supreme Court of Judicature Act, 1881.	Section twenty-six.
51 & 52 Vict. c. 43.	The County Courts Act, 1888.	Section one hundred and eighty-four.

Section 11.

ELEVENTH SCHEDULE.

PART I.

AMENDMENTS.

Exclusion of application of s. 42 of principal Act to universities and colleges.

1. Notwithstanding anything in subsection (4) of section forty-six of the principal Act, section forty-two of that Act shall not apply to universities and colleges.

Extension of certain provisions of principal Act to universities and colleges.

2. The purposes to which capital money paid to the Minister by a university or college, and the proceeds of sale of securities representing any such money, may, with the consent of the Minister, be applied, shall include the purposes for which capital money arising under the Settled Land Acts may be applied in pursuance of the following enactments—

(1) Section twenty-one of the Agricultural Holdings Act, 1923;

(2) Paragraph 2 (5) of the Tenth Schedule to the principal Act;

(3) Paragraph 3 (1) of the Tenth Schedule to the principal Act;

(4) Paragraphs (iii), (iv) and (v) of subsection (1) of section sixty-four of the principal Act.

11th Sch. —*cont.*

Part II.

Provisions facilitating the Consolidation of the Law relating to Universities and College Estates.

Amendment of s. 41 of principal Act.

1. The powers conferred by subsection (4) of section forty-one of the principal Act shall, in the case of a university or college, not be exercised without the consent of the Minister.

Amendment of 43 & 44 Vict. c. 46, s. 2.

2. The provisions of section two of the Universities and College Estates (Amendment) Act, 1880, relating to the application of purchase money of land sold, shall extend to all capital money arising under the Universities and College Estates Acts, 1858 to 1898.

Discharge of mortgages.

3. When money has been raised by way of mortgage made by a university or college under the enactments in that behalf, the university or college shall, in such manner as may be approved by the Minister, make provision, either by the grant of an annuity to the lender or by the creation of a sinking or redemption fund or otherwise, for the discharge, within such time not exceeding the maximum time allowed for the repayment of the loan as may be sanctioned by the Minister, of the money borrowed and of the payment of interest due thereon.

Extension of 3 & 4 Vict. c. 113, as amended, to canonries.

4. The benefices to which section sixty-nine of the Ecclesiastical Commissioners Act, 1840, as extended by section seven of the Universities and College Estates Act, 1860, applies, shall include canonries.

Power to transfer advowsons gratuitously.

5. It shall be lawful for a university or college to transfer gratuitously to a bishop, dean and chapter, or other ecclesiastical corporation willing to accept the same, any right of patronage belonging to the university or college.

Amendment of 21 & 22 Vict. c. 44, s. 2.

6. Section two of the Universities and College Estates Act, 1858, shall have effect as if for the words "or other assurance," there were substituted the words "other assurance or instrument," and as if for the words "or mortgage" where they first occur in that section, there were substituted the words "mortgage or other transaction."

Amendment of 61 & 62 Vict. c. 55, s. 5.

7. Section five of the Universities and College Estates Act, 1898, shall have effect as if for the words "or quit rent" there were substituted the words "quit rent or other periodical payment."

Amendment of 21 & 22 Vict. c. 44, s. 29.

8. The Universities and College Estates Act, 1858, shall have effect as if for section twenty-nine thereof the following sections were substituted:

"(1) The powers and provisions of this Act relating to land belonging to a university or college shall extend and be

11TH SCH. —*cont.*

applicable not only to land vested in the university or college or in any body constituted for holding land belonging to the university or college and held as the property or for the general purposes of the university or college, but also to land so vested which may be held upon any trusts, or for any special endowment or other purposes, connected with the university or college.

"(2) The powers conferred by this Act on a university or college may, as respects each particular university or college, be exercised by such body and in such manner as may be provided by the statutes regulating that university or college."

CHAPTER 6.

An Act to make valid certain charges imposed and levies made during the late War.

[5th March 1925.]

Most Gracious Sovereign,

WHEREAS during the late War certain Government Departments purporting to act in the execution of duties imposed, and in pursuance of powers conferred, upon them by the Defence of the Realm Regulations, Orders made under those Regulations or otherwise howsoever, respectively imposed, or purported to impose, directly or indirectly, certain charges by way of payments required to be made either on or in connection with the grant of licences or permits issued, or purporting to be issued, in pursuance of the said powers or in connection with the control of the supplies or of the prices of certain commodities, and thereafter levied certain of the sums payable or alleged to be payable by virtue of the said charges, but certain of the said sums remained unpaid at the commencement of this Act:

And whereas the power in law of the said Government Departments to impose the said charges, or certain of them, and to levy the said sums, or certain of them, has been called in question:

Now, therefore, we, Your Majesty's most dutiful and loyal subjects, the Commons of the United Kingdom of Great Britain and Ireland in Parliament assembled, have resolved that it is expedient that legal validity should be given to the imposition and levying of certain of the

charges aforesaid comprising all the charges specified in the Schedule to this Act; and do accordingly most humbly beseech Your Majesty that it may be enacted, and be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

Validity of certain War charges and levies.

1. Subject as hereinafter provided, the imposition of the charges specified in the Schedule to this Act, and the levying of the sums thereby charged shall be, and shall be deemed always to have been, valid in law, and accordingly—

(*a*) any sum so charged on any person but not levied or paid before the commencement of this Act may be recovered as a debt due to His Majesty; and

(*b*) no proceedings whatsoever shall be instituted by any person in any court of law or before any other tribunal whatsoever for the repayment to him of any sums so levied as aforesaid, or for compensation in respect of the making of any such levy, and if any such proceedings have been instituted before the date of the passing of this Act, they shall be discharged and made void, and any judgment of any court or tribunal obtained after the eighteenth day of December, nineteen hundred and twenty-four, in any such proceedings shall be void :

Provided that where any such proceedings (not being proceedings the institution of which was barred by the Indemnity Act, 1920, or any other Act) were instituted before the nineteenth day of December, nineteen hundred and twenty-four, and are pending at the date of the passing of this Act, the person by whom the proceedings were instituted shall, unless the court or a judge of the court or the tribunal dealing with the case thinks just to order otherwise, be entitled to an order directing payment, and, if necessary, taxation as between solicitor and own client, of his costs, charges, and expenses of and incidental to the proceedings, other than any such costs, charges, or expenses

10 & 11 Geo. 5. c. 48.

incurred after the eighteenth day of December, nineteen hundred and twenty-four.

Short title.

2. This Act may be cited as the War Charges (Validity) Act, 1925.

SCHEDULE.

PARTICULARS OF CHARGES.

1. Charges imposed by the Food Controller on licences—
   (*a*) under the Flour and Bread (Prices) Order, 1917, the Flour and Bread (Prices) Order, 1920, and amending Orders to obtain flour for purposes other than the baking of bread, cakes or biscuits for retail sale;
   (*b*) under the Wheat (Channel Islands and Isle of Man Export) Order, 1917, to export wheat to the Channel Islands and the Isle of Man;
   (*c*) authorising the brewing of additional beer for munition and agricultural workers;
   (*d*) authorising the dealing in and the inter-zonal movement of potatoes.

2. Charges imposed by the Food Controller—
   (*a*) on dealers in and retailers of flour in connection with the Bread Subsidy Reduction Schemes;
   (*b*) on brokers in respect of the increased value of hides sold to them at fixed prices;
   (*c*) under the Imported Meat (Requisition) Order, 1919;
   (*d*) under the Cattle (Feeding Stuffs) Scheme.

3. Charges made in connection with the control of the supplies of cotton.

4. Charges imposed by the Board of Trade on licences to import or export goods contrary to prohibitions.

5. Charges imposed by the Hop Controller on licences to import foreign hops.

6. Charges imposed by the Ministry of Munitions in connection with the export of steel and pig iron and permits to increase stocks of steel.

7. Charges imposed by the Ministry of Shipping on licences to transfer ships to a foreign flag.

8. Charges imposed by the War Office and the Ministry of Munitions on—

(*a*) tanners in respect of leather made from home-grown hides;

(*b*) licences to import upper and sole leather purchased abroad before 23rd February 1917;

(*c*) licences to export stocks of rough leather.

9. Charges imposed by the Ministry of Munitions on licences to export glycerine.

CHAPTER 7.

An Act to indemnify and relieve William Preston, Esquire, from any penal consequences which he may have incurred or suffered by sitting or voting as a member of the House of Commons during a time when he was executing, holding or enjoying a contract, agreement or commission made or entered into with the Postmaster-General, and for purposes incidental thereto.

[5th March 1925.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Indemnification of William Preston, Esquire.

1. William Preston, Esquire, shall be and is hereby indemnified, freed, and discharged from and against all forfeitures, incapacities, or other penal consequences whatsoever (if any) already incurred by him by sitting or voting as a member of the House of Commons during a time when he was executing, holding or enjoying a contract, agreement or commission made or entered into with the Postmaster-General.

Short title.

2. This Act may be cited as the William Preston Indemnity Act, 1925.

CHAPTER 8.

An Act to apply certain sums out of the Consolidated Fund to the service of the years ending on the thirty-first day of March, one thousand nine hundred and twenty-five, and one thousand nine hundred and twenty-six.

[27th March 1925.]

Most Gracious Sovereign,

WE, Your Majesty's most dutiful and loyal subjects, the Commons of the United Kingdom of Great Britain and Ireland in Parliament assembled, towards making good the supply which we have cheerfully granted to Your Majesty in this session of Parliament have resolved to grant unto Your Majesty the sums hereinafter mentioned; and do therefore most humbly beseech Your Majesty that it may be enacted, and be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Issue of 8,137,227*l.* out of the Consolidated Fund for the service of the year ended 31st March, 1925.

1. The Treasury may issue out of the Consolidated Fund of the United Kingdom, and apply towards making good the supply granted to His Majesty for the service of the year ending on the thirty-first day of March, one thousand nine hundred and twenty-five, the sum of eight million one hundred and thirty-seven thousand two hundred and twenty-seven pounds.

Issue of 163,314,200*l.* out of the Consolidated Fund for the service of the year ending 31st March, 1926.

2. The Treasury may issue out of the Consolidated Fund of the United Kingdom, and apply towards making good the supply granted to His Majesty for the service of the year ending on the thirty-first day of March, one thousand nine hundred and twenty-six, the sum of one hundred and sixty-three million three hundred and fourteen thousand and two hundred pounds.

Power for the Treasury to borrow.

3.—(1) The Treasury may borrow from any person, by the issue of Treasury Bills or otherwise, and the Bank of England and the Bank of Ireland may advance to the Treasury on the credit of the said sum, any sum or sums not exceeding in the whole one hundred and

seventy-one million four hundred and fifty-one thousand four hundred and twenty-seven pounds.

(2) The date of payment of any Treasury Bills issued under this section shall be a date not later than the thirty-first day of March, one thousand nine hundred and twenty-six, and section six of the Treasury Bills Act, 1877 (which relates to the renewal of bills), shall not apply with respect to those Bills. 40 & 41 Vict. c. 2.

(3) Any money borrowed otherwise than on Treasury Bills shall be repaid, with interest not exceeding five pounds per centum per annum, out of the growing produce of the Consolidated Fund, at any period not later than the next succeeding quarter to that in which the money was borrowed.

(4) Any money borrowed under this section shall be placed to the credit of the account of the Exchequer, and shall form part of the said Consolidated Fund, and be available in any manner in which such Fund is available.

4. This Act may be cited as the Consolidated Fund (No. 1) Act, 1925. Short title.

CHAPTER 9.

An Act to approve a Treaty between His Majesty and the King of Italy. [27th March 1925.]

WHEREAS His Majesty the King and His Majesty the King of Italy have concluded the Treaty set out in the Schedule to this Act:

And whereas the said Treaty has not yet been ratified:

And whereas it is expedient that the approval of Parliament should be given to the said Treaty:

Be it therefore enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. The approval of Parliament is hereby given to the said Treaty, and it shall be lawful for His Majesty to make such Orders in Council and to do all such things Assent to Treaty.

as appear to him to be necessary or proper for carrying the said Treaty into effect.

Short title.

2. This Act may be cited as the Anglo-Italian Treaty (East African Territories) Act, 1925.

SCHEDULE.

TREATY BETWEEN THE UNITED KINGDOM AND ITALY REGULATING CERTAIN QUESTIONS CONCERNING THE BOUNDARIES OF THEIR RESPECTIVE TERRITORIES IN EAST AFRICA.

Signed at London, July 15, 1924.

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, and His Majesty the King of Italy, desiring to regulate, in a spirit of goodwill, certain questions concerning the boundaries of their respective territories in East Africa, have named as their plenipotentiaries:

HIS MAJESTY THE KING OF THE UNITED KINGDOM OF GREAT BRITAIN AND IRELAND AND OF THE BRITISH DOMINIONS BEYOND THE SEAS, EMPEROR OF INDIA:

The Right Honourable James Ramsay MacDonald, M.P., His Prime Minister and Principal Secretary of State for Foreign Affairs:

AND HIS MAJESTY THE KING OF ITALY:

His Excellency Il Marchese della Torretta dei Principi di Lampedusa, His Ambassador Extraordinary and Plenipotentiary at the Court of St. James:

Who, having exhibited their respective full powers found in good and due form, have agreed as follows:—

ARTICLE 1.

His Britannic Majesty, in his own name and on his own behalf and by virtue of his protectorate over Zanzibar in the name and on behalf of His Highness the Sultan of Zanzibar, so far as the latter may be concerned, transfers to His Majesty the King of Italy all sovereign rights and title over that portion of African territory lying between the present Italian colony of

Southern Somaliland and a new boundary line to be determined as follows:—

From the confluence of the rivers Ganale and Daua, along the course of the Daua up-stream to the southern point of the small southerly bend of the latter river in the vicinity of Malka Ré; thence in a south-westerly direction in a straight line to the centre of the pool of Dumasa; thence in a south-westerly direction in a straight line towards Eilla Kalla (which remains in British territory) to such meridian east of Greenwich as shall leave in Italian territory the well of El Beru; thence along the same meridian southwards until it reaches the boundary between the provinces of Jubaland and Tanaland; thence along that provincial boundary to a point due north of the point on the coast due west of the southernmost of the four islets in the immediate vicinity of Ras Kiambone (Dick's Head); thence due southwards to such point on the coast. Ras Kiambone (Dick's Head) and the four islets above mentioned shall fall within the territory to be transferred to Italy.

In the event, however, of it being found by the Commission referred to in Article 12 that the well of El Beru does not contain water either sufficient or suitable for the maintenance at that point of an Italian frontier post, then the line, as between El Beru and Eilla Kalla, shall be so drawn by the Commission as to include in Italian territory the neighbouring well of El Shama.

ARTICLE 2.

The above boundary is shown on the attached map, and all references in the above description of the boundary are to this map.

In the event of differences between the text and the map, the text will prevail.

ARTICLE 3.

The Italian Government agree to the cancellation of the Treaty of Commerce between Italy and Zanzibar of the 23rd May 1885.

In accordance with the provisions of the Convention of Saint-Germain-en-Laye of the 10th September 1919, Italian subjects in the protectorate of Zanzibar shall enjoy the same rights and privileges and receive the same treatment as British subjects.

ARTICLE 4.

The Italian Government shall indemnify the Government of His Highness the Sultan of Zanzibar for any loss of net revenue arising out of the present transfer of territory, and shall pay to the latter, as an indemnity which shall in no wise represent a tribute implying any survival of sovereignty, the annual sum of £1,000, representing the proportionate share of the annuity

which has hitherto been paid by the British Government to the Government of Zanzibar.

The Italian Government shall be entitled at any time to effect the discharge of any obligation undertaken under the preceding paragraph by means of the payment of a lump sum of £25,000 to the Government of His Highness the Sultan of Zanzibar.

ARTICLE 5.

The Italian Government undertakes that, if it shall at any time desire to abandon all or any part of the territory transferred to it as above, it shall offer the same to the British Government upon such terms as may be just.

In the event of any differences between the two Governments as to the terms of transfer, the question shall be referred to arbitration in accordance with such procedure as the Council of the League of Nations may prescribe.

ARTICLE 6.

British subjects, other than those persons who have become British subjects by the annexation of the colony of Kenya, ordinarily resident at the date of the coming into force of the present convention in the territory transferred under Article 1, shall, unless within six months of the coming into force of the present convention they opt for Italian nationality, retain their British nationality without being called upon to withdraw from the said territory or to part with their property. In the event of their not opting for Italian nationality and of their desiring to withdraw from the transferred territory, they shall be at liberty to do so within twelve months from the coming into force of the present convention.

British-protected persons and British subjects who have become such by the annexation of the Colony of Kenya, ordinarily resident in the transferred territory, will acquire Italian nationality and cease to be British-protected persons and British subjects respectively. Provided, however, that such persons, not being Somalis, or belonging to the native races of the area transferred, shall have the right to retain their existing nationality on condition that they withdraw from the transferred territory within twelve months from the coming into force of the present convention.

The same right is conferred on such a number of Somalis who are separated from their families by the new frontier as the wells and pasturage in the territory defined in the Annex to this Article can support, having regard to the present and reasonable future requirements of the tribes or sections of tribes already there, provided that such persons must be individually registered before they are allowed to cross into British territory. The commission

referred to in Article 12 shall decide as to the capacity in this respect of the said wells and pasturages and as to the number of the persons who may avail themselves of this right.

Persons who withdraw from the transferred territory under this Article shall be entitled to carry with them their movable property of every description without payment of export duties of any kind. They shall not in respect of such property be subject to import duties of any kind in the Colony of Kenya. They shall be entitled to retain their immovable property in the transferred territory.

Annex.

The territory lying within a straight line from the Lorian Swamp to Saddi: a straight line from Saddi to El Beru: the line defined in Article 1 from El Beru to its junction with the Tanaland-Jubaland frontier: and a straight line from the said junction to the Lorian Swamp.

Article 7.

All concessions or rights to properties in the above territories which have been recognised as valid by the former Government, and are held by private persons or corporations at the date of the transfer of those territories, shall be recognised as valid by the Italian Government, to whom shall be transferred all rights and obligations of the former Government under the said concessions.

It is agreed that the concessions and property rights shall be exercised in accordance with the general laws and regulations in force in the Italian colony of Italian Somaliland, and that the Italian Government may impose on the concessionnaires and proprietors all limitations necessary for the execution of works of general utility, upon granting to such persons the same compensation or indemnity as that to which Italian subjects would be entitled in similar cases.

Article 8.

All treaties, conventions and agreements between the Government of His Britannic Majesty and the Government of His Majesty the King of Italy, applicable to the Italian colony of Italian Somaliland, and at present in force, shall be extended to the territory now transferred in accordance with the present agreement.

Article 9.

The two Governments undertake that they will respectively endeavour to prevent any migration of Somalis or other natives across the frontier defined in Article 1.

If, however, the inquiries of the Commission referred to in Article 12 show that in the neighbourhood of the sector of the

new frontier running from El Beru to the Jubaland—Tanaland boundary there exists a shortage of pasture for the tribes situated on the Italian side of the frontier, and if these inquiries also show that during the rainy season there is on the British side of that sector and in the region bounded on the east by the new frontier and on the west by the line Goochi-Ribba-El-Tulli-Lakola-Toor Guda-Ramaguda more pasturage available than is required for the tribes in British territory, then the Commission will have power to decide that for a certain period, not less than five years, Somalis or other natives of the transferred territory may during the rainy season cross the boundary to such a distance and in such numbers as the Commission may prescribe, it being understood that in no case shall such Somalis or natives be allowed to pass to the west of the line Goochi-Ribba-El-Tulli-Lakola-Toor Guda-Ramaguda. The decisions of the Commission shall be carried into effect by the authorities concerned, and at the end of the period so prescribed the position will be reconsidered in a friendly spirit in the light of the experience gained and of the requirements at that time of the tribes in British territory.

ARTICLE 10.

The two Governments shall come to the necessary agreements with regard to the special conditions of time and place for evacuation by the British troops of the territory to be transferred and the entry of Italian troops; they shall settle in consultation with the local authorities the conditions of transfer to the Italian Government of the Government buildings existing within the territory which the latter may wish to acquire from the British Government and of the wireless telegraph installation at Kismayu.

The Italian Government agrees to respect the rights of Sudanese pensioners remaining at Yonte, in accordance with the general laws and regulations of the Italian colony of Southern Somaliland, and to make provision for the up-keep of the cemetery at Kismayu and the Jenner memorial.

ARTICLE 11.

The two Governments agree to consult together with a view to framing and putting into force reciprocal measures for the control of the illicit ivory traffic across the frontier defined in Article 1 of the present convention.

ARTICLE 12.

The manner in which the present agreement shall be carried out shall be settled on the spot by a commission composed of British and Italian officials appointed for the purpose by the two Governments. Until the whole boundary shall have been

demarcated by an accurate survey, the officials thus appointed shall be empowered to decide, provided an agreement can be reached, under which Government water holes of local importance situated near the boundary shall come.

In the event of an agreement not being found possible, the points in dispute shall be settled by an accurate survey in accordance with the line described in Article 1.

The present convention shall be ratified, and the ratifications exchanged in London as soon as possible.

In witness whereof the undersigned have signed the present convention, and have affixed thereto their seals.

Done in duplicate at London, the 15th day of July 1924.

(L.S.) J. RAMSAY MacDONALD.

(L.S.) TORRETTA.

CHAPTER 10.

An Act to continue in force for one year the Agricultural Rates Act, 1923, to continue for so long as the said Act remains in force the charge on the Consolidated Fund of the additional annual grants payable thereunder, and to amend the said Act in its application to the Isles of Scilly. [27th March 1925.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Continuance of 13 & 14 Geo. 5. c. 39.

1.—(1) The provisions of the Agricultural Rates Act, 1923, other than section fifteen thereof, shall, unless Parliament otherwise determines, continue in force until the thirty-first day of March, nineteen hundred and twenty-six.

(2) The said section fifteen (which charges on the Consolidated Fund of the United Kingdom or the growing produce thereof the additional annual grants payable under the said Act), shall continue in force for so long

as the said Act, whether by virtue of this or of any subsequent Act, continues in force.

Amendment as to application of Act to Scilly Islands.

2.—(1) The Minister of Health, in estimating from time to time for the purposes of section three of the Agricultural Rates Act, 1923, the deficiency arising by reason of the provisions of that Act in the produce of the rates made by the Council of the Isles of Scilly, shall include therein any deficiency arising as aforesaid in the produce of such part of any rate made in the said Isles as appears to the Minister to have been levied for the purpose of meeting expenditure in connection with the relief of the poor in the said Isles.

(2) This section shall be deemed to have had effect as from the thirtieth day of September, nineteen hundred and twenty-four.

Short title.

3. This Act may be cited as the Agricultural Rates (Additional Grant) Continuance Act, 1925.

CHAPTER 11.

An Act to make provision with respect to the number of councillors of boroughs, and metropolitan boroughs, and matters incidental thereto. [27th March 1925.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Alteration of number of councillors of boroughs. 45 & 46 Vict. c. 50. 56 & 57 Vict. c. 9.

1. The powers of dividing boroughs into wards and altering wards conferred by section thirty of the Municipal Corporations Act, 1882, as amended by the Municipal Corporations Act, 1893, shall be extended so as to include power to alter the number of councillors of a borough and in the case of a borough divided into wards, to apportion or alter the apportionment of the councillors among the wards, and accordingly a petition may be presented by the council of a borough under that section as so amended praying for an alteration of the number

of councillors of the borough, either with or without a division of the borough into wards or an alteration of the number or boundaries of the wards; and for the purposes of any such petition and the proceedings thereon, the provisions of the said section shall apply with the necessary modifications, save that in the case of a petition presented by the council of a borough not divided into wards praying only for an alteration of the number of councillors of the borough, the Order in Council fixing the number of councillors of the borough shall take effect from such date as may be specified therein, and subsections (3) to (15) of the said section shall not apply.

Alteration of number of councillors of metropolitan boroughs. 62 & 63 Vict. c. 14.

2.—(1) The powers of the Secretary of State under section twenty-six of the London Government Act, 1899 (which relates to the alteration of wards of metropolitan boroughs) shall be extended so as to include power, whenever he is satisfied that a primâ facie case is made out for a proposal for the alteration of the number of councillors of a metropolitan borough, to cause such inquiries to be made and such notices to be given as he may think expedient, and, if satisfied that the proposal is desirable, to make an order altering the number of councillors of the borough and the apportionment of the councillors among the wards and the said section as amended by any subsequent enactment shall have effect accordingly.

(2) For the purposes of any alteration of the apportionment of the councillors amongst the wards, the requirement in subsection (2) of section two of the London Government Act, 1899, that the number of councillors assigned to each ward shall be a number divisible by three, shall be deemed not to apply.

Consequential provisions.

3. Any Order in Council or scheme under section thirty of the Municipal Corporations Act, 1882, as extended by this Act, and any order of the Secretary of State under section twenty-six of the London Government Act, 1899, as so extended, may contain such incidental, consequential, and supplemental provisions as appear to be necessary or proper for bringing into operation, and giving full effect to, the order or scheme.

Short title.

4. This Act may be cited as the Borough Councillors (Alteration of Number) Act, 1925.

CHAPTER 12.

An Act to provide for the payment of a subsidy in respect of sugar and molasses manufactured in Great Britain during a period of ten years beginning on the first day of October, nineteen hundred and twenty-four, from beet grown in Great Britain, and to charge a duty of excise on sugar and molasses manufactured in Great Britain and Northern Ireland from beet grown in those countries. [27th March 1925.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

Rate and conditions of payment of subsidy.

1.—(1) Subject to the provisions of this section and to the satisfaction of such requirements as to proof and otherwise as may be prescribed by rules, there shall, out of moneys provided by Parliament, be paid in respect of every hundredweight of sugar or molasses manufactured in Great Britain during a period of ten years beginning on the first day of October, nineteen hundred and twenty-four, from beet grown in Great Britain (in this Act referred to as "home-grown beet"), a subsidy at the rate prescribed by the First Schedule to this Act.

(2) The subsidy shall not be payable—

(*a*) in respect of any sugar or molasses unless it is shown to the satisfaction of the Minister that the price paid or agreed to be paid for the beet from which the sugar or molasses was manufactured represents a rate not less than the minimum price per ton (if any) prescribed as respects that beet by the Second Schedule to this Act; or

(*b*) in respect of sugar or molasses manufactured in any particular factory, unless it is shown to the satisfaction of the Minister that not less than seventy-five per cent. of the plant and

machinery installed in the factory for the manufacture of sugar and molasses consists of plant and machinery wholly manufactured in Great Britain:

Provided that the provisions of this paragraph shall not apply in the case of any factory in respect of which the Minister thinks fit for any special reason to direct that they shall not apply, and in the case of a factory which was used for the manufacture of sugar or molasses before the date of the passing of this Act shall apply only in relation to plant or machinery installed in the factory on or after that date.

The percentage aforesaid shall be ascertained on the basis of the value of the plant and machinery as delivered into the factory.

(3) The Minister may, if he thinks fit, in the case of sugar or molasses manufactured during the year beginning on the first day of October, nineteen hundred and twenty-four, withhold payment of any subsidy payable in respect thereof unless and until he is satisfied that all duties of excise payable in respect thereof have been duly paid.

(4) Subject to the provisions of this section, the subsidy shall be paid to the person by whom the sugar or molasses was manufactured and the amount thereof payable to any person shall be calculated in respect of the amount of sugar which is manufactured by that person in each week and in respect of the amount of molasses which in each week is delivered from the factory or used therein in the manufacture of food for stock, and payment shall be made from time to time as soon as may be after the amount payable in respect of each week has been ascertained:

Provided that where, subject to and in accordance with any rules, sugar or molasses which has been manufactured in one factory is removed into another factory for the purpose of being therein subjected to a further process of manufacture and no claim is made for payment of subsidy in respect of the article as manufactured in the first factory, the subsidy shall be payable in respect of the article as it exists when finally manufactured in the second factory and to the person by whom the article was manufactured therein.

(5) All claims for payment of subsidy shall be made to and determined by the Minister in accordance with rules, and any decision of the Minister given with respect to or in connection with any such claim shall, subject to the provisions of this Act, be final and conclusive.

(6) If any person acts in contravention of or fails to comply with any rule, he shall, in respect of each offence, be liable on summary conviction to a penalty of fifty pounds.

Accounts of companies in receipt of subsidy to be laid before Parliament.

2.—(1) Any company which manufactures in Great Britain sugar or molasses from home-grown beet shall in every year in which a subsidy is payable under this Act send to the Minister a statement in the form of a balance-sheet, audited by the company's auditors, containing a summary of the company's share capital, its liabilities, and its assets, giving such particulars as will disclose the general nature of those liabilities and assets and how the values of the fixed assets have been arrived at, and also a statement of profit and loss, audited in the like manner. Every such statement shall be made up to such date as may be specified therein and shall be sent to the Minister within ninety days of that date.

(2) Such balance-sheet and statement of profit and loss shall be drawn up in accordance with rules, and the Minister may require such explanations in relation thereto as may seem to him proper.

(3) If a company makes default in complying with the requirements of this section it shall be liable on summary conviction to a fine not exceeding five pounds for every day during which the default continues.

(4) The Minister shall lay before Parliament copies of all balance-sheets sent to him in accordance with the requirements of this section.

Fair wages to be paid by employers in receipt of subsidy.

3.—(1) The wages paid by any employer to persons employed by him in connection with the manufacture of sugar or molasses in respect of which a subsidy is payable under this Act shall, except where paid at a rate agreed upon by a joint industrial council representing the employer and the persons employed, not be less than would be payable if the manufacture were carried on under a contract made between the Minister and the employer containing a fair wage clause which complied with the

requirements of any resolution of the House of Commons for the time being in force applicable to contracts of Government departments, and if any dispute arises as to what wages ought to be paid in accordance with this section it shall be referred by the Minister to the Industrial Court for settlement.

(2) Where any award has been made by the Industrial Court upon a dispute referred to that Court under this section, then as from the date of the award or from such later date as the Court may direct, it shall be an implied term of the contract between every employer and worker to whom the award applies that the rate of wages to be paid under the contract shall, until varied in accordance with the provisions of this section, be in accordance with the award.

Charge of excise duty on sugar and molasses made from beet grown in Great Britain or Northern Ireland. 12 & 13 Geo. 5. c. 17. 14 & 15 Geo. 5. c. 21. 5 & 6 Geo. 5. c. 89.

4.—(1) The exemption from duties of excise given by section six of the Finance Act, 1922, in respect of sugar and molasses manufactured from beet grown in Great Britain or Northern Ireland shall cease, and accordingly section five of the Finance Act, 1924 (which makes provision for the excise duties to be charged and the drawbacks and allowance to be allowed and paid in respect of sugar and molasses manufactured in Great Britain or Northern Ireland), shall extend to sugar and molasses manufactured in Great Britain or Northern Ireland from such beet as aforesaid.

(2) Part III. of the First Schedule to the Finance (No. 2) Act, 1915 (which contains provisions relating to the excise duties on sugar), shall have effect as though the provisions set out in the Third Schedule to this Act were substituted for paragraph 3 of the said Part III.

(3) This section shall be deemed to have had effect as from the thirtieth day of September, nineteen hundred and twenty-four.

Repayment of amounts improperly obtained and penalty for false statements, &c.

5.—(1) If it is found at any time that any person has obtained any payment by way of subsidy to which, or to part of which, he was not lawfully entitled, the amount of that payment or of that part of the payment may, without prejudice to the recovery thereof as a debt due to the Crown, and without prejudice to the criminal liability, if any, of any person

for any untrue statement or untrue representation, be recovered by the Minister summarily as a civil debt.

(2) If for the purpose of obtaining payment of the subsidy either for himself or for any other person any person makes any untrue statement or untrue representation, he shall, in respect of each offence, be liable on summary conviction to a penalty of fifty pounds, unless he proves that he did not know, and could not with reasonable diligence have ascertained, that the statement or representation was untrue.

(3) If proceedings for an offence under this section or under section one of this Act are instituted by the Commissioners of Customs and Excise, the penalty for the offence shall be deemed to be an excise penalty and shall be recoverable accordingly.

Short title, interpretation and repeal.

6.—(1) This Act may be cited as the British Sugar (Subsidy) Act, 1925.

(2) This Act, so far as it relates to excise duties and excise penalties, shall be construed together with the enactments relating to those duties and the management thereof.

(3) In this Act, unless the context otherwise requires—

The expression "subsidy" means the subsidy payable under this Act in respect of manufactured sugar and molasses:

The expression "factory" includes refinery, and the expression "manufactured" includes refined, and the expression "manufacture" shall be construed accordingly:

The expression "the Minister" means, in the application of the Act to England and Wales, the Minister of Agriculture and Fisheries, and in the application of the Act to Scotland, the Board of Agriculture for Scotland:

The expression "rules" means rules made for the purposes of this Act by the Minister of Agriculture and Fisheries and the Board of Agriculture for Scotland jointly.

(4) Section six of the Finance Act, 1922, is hereby repealed.

SCHEDULES.

FIRST SCHEDULE.

RATE OF SUBSIDY.

Article.	Rate per cwt. If manufactured between 30th Sept., 1924, and 1st Oct., 1928.	Rate per cwt. If manufactured between 30th Sept., 1928, and 1st Oct., 1931.	Rate per cwt. If manufactured between 30th Sept., 1931, and 1st Oct., 1934.
	s. *d.*	*s.* *d.*	*s.* *d.*
Sugar which when tested by the polariscope indicates a polarisation exceeding 98 degrees	19 6	13 0	6 6
Sugar of a polarisation—			
Exceeding 97 and not exceeding 98	17 11·2	11 11·5	5 11·7
„ 96 „ 97	17 5·6	11 7·7	5 9·8
„ 95 „ 96	17 0·0	11 4·0	5 8·0
„ 94 „ 95	16 6·4	11 0·2	5 6·1
„ 93 „ 94	16 0·8	10 8·5	5 4·2
„ 92 „ 93	15 7·2	10 4·8	5 2·4
„ 91 „ 92	15 1·5	10 1·0	5 0·5
„ 90 „ 91	14 7·9	9 9·3	4 10·6
„ 89 „ 90	14 2·3	9 5·5	4 8·7
„ 88 „ 89	13 8·7	9 1·8	4 6·9
„ 87 „ 88	13 4·0	8 10·7	4 5·3
„ 86 „ 87	12 11·3	8 7·5	4 3·7
„ 85 „ 86	12 7·1	8 4·7	4 2·3
„ 84 „ 85	12 2·9	8 1·9	4 0·9
„ 83 „ 84	11 10·7	7 11·1	3 11·5
„ 82 „ 83	11 6·5	7 8·3	3 10·1
„ 81 „ 82	11 2·7	7 5·8	3 8·9
„ 80 „ 81	10 11·0	7 3·3	3 7·6
„ 79 „ 80	10 7·2	7 0·8	3 6·4
„ 78 „ 79	10 3·5	6 10·3	3 5·1
„ 77 „ 78	9 11·8	6 7·8	3 3·9
„ 76 „ 77	9 8·0	6 5·3	3 2·6

1ST SCH. —*cont.*

Article.	Rate per cwt. If manufactured between 30th Sept., 1924, and 1st Oct., 1928.	Rate per cwt. If manufactured between 30th Sept., 1928, and 1st Oct., 1931.	Rate per cwt. If manufactured between 30th Sept., 1931, and 1st Oct., 1934.
Molasses—	*s. d.*	*s. d.*	*s. d.*
If containing 70 per cent. or more of sweetening matter - -	12 4·7	8 3·1	4 1·5
If containing less than 70 per cent. and more than 50 per cent. of sweetening matter -	8 10·9	5 11·3	2 11·6
If containing not more than 50 per cent. and not less than 45 per cent. of sweetening matter -	4 3·8	2 10·5	1 5·2
If containing less than 45 per cent. of sweetening matter.	Rates bearing the same proportion to the rates provided by this Schedule in the case of molasses containing not more than 50 per cent. and not less than 45 per cent. of sweetening matter as the percentage of sweetening matter bears to 50 per cent.		

Note.—Where the amount of the sugar or molasses is less than one hundredweight, the rate of the subsidy shall be proportionately reduced.

SECOND SCHEDULE.

MINIMUM PRICES OF BEET.

DESCRIPTION OF BEET.	Price per ton.
Beets grown in the years 1924, 1925, 1926 or 1927.	44*s.*

For the purposes of this Schedule—

(1) The price means the price payable as in respect of beets properly topped and washed, delivered into the factory sidings or flumes and having a sugar content of fifteen and one-half per cent.

2nd Sch. —*cont.*

(2) Where the sugar content of any beets is greater or less than fifteen and one-half per cent. there shall be made an addition to or deduction from the minimum price at the rate of threepence in respect of each 0·1 per cent. above or below fifteen and one half, as the case may be.

(3) The sugar content of beets shall be ascertained by means of the cold water digestion method.

THIRD SCHEDULE.

Provisions substituted for Paragraph 3 of Part III. of First Schedule to Finance (No. 2) Act, 1915.

3. The Commissioners of Customs and Excise may make regulations prohibiting the manufacture of sugar except by persons holding a licence and having made entry for the purpose, and for fixing the date of expiration of the licence, and with a view to securing and collecting the excise duties imposed on sugar and molasses, and to verifying claims for drawback, allowance or subsidy, may make regulations regulating the manufacture of sugar, the use of molasses in a licensed sugar manufactory in the manufacturing of feeding stuffs for stock, and the warehousing and removal from the manufactory of sugar and molasses, and may by those regulations apply to the excise duties and drawbacks on sugar and to manufacturers of sugar any enactments relating to any duty or drawback of excise or customs and to persons carrying on any trade subject to the laws of excise.

If any person acts in contravention of, or fails to comply with, any regulations, made under this Schedule the article in respect of which the offence is committed shall be forfeited, and the person committing the offence shall be liable in respect of each offence to an excise penalty of fifty pounds.

CHAPTER 13.

An Act to amend the Trade Facilities Acts, 1921 to 1924, by increasing the maximum limit of the loans in respect of which guarantees may be given under those Acts and by extending the period within which such guarantees may be given. [27th March 1925.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

Increase of amount of loans which may be guaranteed under 11 & 12 Geo. 5. c. 65, and extension of period for giving guarantees.

1.—(1) The maximum limit on the aggregate capital amount of the loans, the principal or interest of which may be guaranteed under subsection (1) of section one of the Trade Facilities Act, 1921, as amended by any other enactment, shall be increased from sixty-five million pounds to seventy million pounds.

(2) The period within which guarantees may be given under the said section one (which period as now limited will expire on the thirty-first day of March, nineteen hundred and twenty-five), shall be extended by one year.

Short title.

2. This Act may be cited as the Trade Facilities Act, 1925, and the Trade Facilities Acts, 1921 to 1924, and this Act may be cited together as the Trade Facilities Acts, 1921 to 1925.

Amended by the Housing Act 1930 (c. 39) and by the Housing Act 1935 (c. 40) Repealed by the Housing Act 1936 (c. 51)

CHAPTER 14.

An Act to consolidate the enactments relating to the Housing of the Working Classes in England and Wales. [9th April 1925.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I.

PROVISIONS FOR SECURING THE REPAIR, MAINTENANCE AND SANITARY CONDITIONS OF HOUSES.

Obligations as to Repair of Houses.

Conditions to be implied on letting houses for habitation.

Morgan v. Liverpool Corp. [1927] 2 K. B. 131

1.—(1) In any contract for letting for habitation a dwelling-house at a rent not exceeding—

(*a*) in the case of a house situate in the administrative county of London, forty pounds;

(*b*) in the case of a house situate elsewhere, twenty-six pounds;

there shall, notwithstanding any stipulation to the contrary, be implied a condition that the house is at the commencement of the tenancy, and an undertaking that the house will be kept by the landlord during the tenancy, in all respects reasonably fit for human habitation:

Provided that the condition and undertaking aforesaid shall not be implied when a house is let for a term of not less than three years upon the terms that it be put by the lessee into a condition reasonably fit for habitation, and the lease is not determinable at the option of either party before the expiration of three years.

(2) The landlord, or any person authorised by him in writing, may at reasonable times of the day, on giving twenty-four hours' notice in writing to the tenant or

occupier, enter any premises to which this section applies for the purpose of viewing the state and condition thereof.

(3) In this section the expression "landlord" means any person who lets for habitation to a tenant any house under any contract referred to in this section, and includes his successors in title, and the expression "dwelling-house" includes part of a dwelling-house.

(4) This section applies to a contract made either before or after the commencement of this Act:

Provided that, in the case of a house situate elsewhere than in the administrative county of London, or a borough or an urban district with a population according to the last census for the time being of fifty thousand or upwards, the rent whereof exceeds sixteen pounds, this section shall not apply if the contract was made before the thirty-first day of July, nineteen hundred and twenty-three.

Application to houses occupied by workmen engaged in agriculture.

2.—(1) Notwithstanding any agreement to the contrary, where under any contract of employment of a workman employed in agriculture the provision of a house or part of a house for the occupation of the workman forms part of the remuneration of the workman, and the provisions of the foregoing section are inapplicable by reason only of the house or part of the house not being let to the workman, there shall be implied as part of the contract of employment, the like condition and undertaking as would be implied under those provisions if the house or part of the house were so let, and those provisions shall apply accordingly as if incorporated in this section, with the substitution of "employer" for "landlord," and such other modifications as may be necessary:

Provided that this section shall not affect the obligation of any person other than the employer to repair a house to which this section applies, or any remedy for enforcing any such obligation.

(2) This section shall apply whether the contract of employment was entered into before or after the commencement of this Act, but shall not apply in respect of any period during which the house was occupied under any such contract before the first day of January, nineteen hundred and twenty-one.

Power of local authority to repair houses.

3.—(1) If the owner of any dwelling-house suitable for occupation by persons of the working classes fails to make or keep the house in all respects reasonably fit for human habitation, then, without prejudice to any other powers, the local authority may serve a notice upon the owner of the house requiring him within a reasonable time, not being less than twenty-one days, specified in the notice, to execute the works specified in the notice as being necessary to make the house in all respects reasonably fit for human habitation:

Provided that, if the house is not capable without reconstruction of being rendered in all respects reasonably fit for human habitation, the owner may, within twenty-one days after the receipt of such notice, by written counter notice to the local authority declare his intention of closing the house for human habitation, and thereupon a closing order shall be deemed to have become operative in respect of the house. Any question arising under this proviso shall, in case of difference between the owner and the local authority, be determined by the Minister.

(2) If the notice of the local authority is not complied with, then—

(*a*) at the expiration of the time specified in that notice if no such counter notice as aforesaid has been given by the owner; and

(*b*) at the expiration of twenty-one days from the determination by the Minister if such counter notice has been given by the owner, and the Minister has determined that the house is capable without reconstruction of being made in all respects reasonably fit for human habitation;

the local authority may themselves do the work required to be done.

(3) Any expenses incurred by the local authority under this section, together with interest at such rate as the Minister may, with the approval of the Treasury, from time to time by order fix, from the date of service of a demand for the same till payment thereof from the owner, may be recovered in a court of summary jurisdiction and until recovery of such expenses and interest the same shall be a charge on the premises. In all summary proceedings by the local authority for the recovery of any such expenses, the time within which

the proceedings may be taken shall be reckoned from the date of the service of notice of demand.

(4) The local authority may by order declare any such expenses to be payable by monthly or annual instalments within a period not exceeding thirty years with interest at such rate as the Minister may, with the approval of the Treasury, from time to time by order fix, from the date of the service of notice of demand until the whole amount is paid, and any such instalments and interest or any part thereof may be recovered in a summary manner from the owner or occupier, and, if recovered from the occupier, may be deducted by him from the rent of the house.

(5) The local authority shall, for the recovery of their expenses with interest, have all the same powers and remedies under the Conveyancing Acts, 1881 to 1922, and otherwise as if they were mortgagees having powers of sale and lease, of accepting surrenders of leases and of appointing a receiver.

(6) An owner may appeal to the Minister against—

(*a*) any notice requiring him to execute works under this section; or

(*b*) any demand for the recovery of expenses from him under this section; or

(*c*) an order made by the local authority under this section with respect to those expenses;

by giving notice of appeal to the Minister within twenty-one days after the notice is received, or the demand or order is made, as the case may be, or such longer time as the Minister may allow, and no proceedings shall be taken in respect of any notice, order or demand whilst the appeal is pending:

Provided that no appeal against such a demand or order shall lie if and so far as the appeal raises any question which might have been raised on an appeal against the notice itself.

(7) Any such notice, demand or order shall be binding and conclusive as to any matters which could have been raised on such appeal to the Minister.

(8) In addition to serving the notice on the owner, the local authority may serve copies of the notice on any

persons having an estate or interest in the premises superior to that of the owner, and it shall be the duty of the owner or any other person having such an estate or interest, on being so required by the local authority, to state the name and address of the person from whom he holds, and if he fails to do so, or knowingly makes a mis-statement, he shall be liable on summary conviction to a fine not exceeding five pounds.

(9) Any remedy given by this section for failure to make or keep a house in all respects reasonably fit for human habitation shall be in addition to and not in derogation of any remedy available to the tenant against his landlord either at common law or otherwise.

(10) In this section " owner " has the same meaning as in the Public Health Acts.

Power of local authority to acquire closed houses.

4. Where a dwelling-house in respect of which a notice has been served upon the owner by the local authority under subsection (1) of the last foregoing section is not capable without reconstruction of being rendered in all respects reasonably fit for human habitation, and a closing order has in consequence been deemed to have become operative in respect thereof, the Minister may on the application of the local authority make an order authorising the authority to acquire the house, and thereupon this Act shall apply as if the house were land authorised to be acquired compulsorily for the purposes of a reconstruction scheme under Part II. of this Act, and that land had been included in the scheme on account of the sanitary condition of the premises thereon.

Information to tenants of houses for the working classes.

5. In the case of dwelling-houses intended or used for occupation by the working classes, the name and address of the medical officer of health for the district and of the landlord or other person who is directly responsible for keeping the house in all respects reasonably fit for human habitation shall be inscribed in the rent book, or, where a rent book is not used, shall be delivered in writing to the tenant at the commencement of the tenancy and before any rent is demanded or collected; and where there has been any failure to comply with the provisions of this section in respect of any house, any person who demands or collects any rent of the dwelling-house shall be liable on summary conviction to a fine not exceeding forty shillings.

Power of Local Authorities to make Byelaws.

Byelaws respecting houses divided into separate tenements.

38 & 39 Vict. c. 55.
54 & 55 Vict. c. 76.

6.—(1) The power of making and enforcing byelaws under the Public Health Act, 1875, and the Public Health (London) Act, 1891, shall include the making and enforcing by local authorities of byelaws in the case of houses intended or used for occupation by the working classes :—

(*a*) for fixing and from time to time varying the number of persons who may occupy a house which is let in lodgings or occupied by members of more than one family, and for separation of the sexes therein;

(*b*) for the registration and inspection of such houses;

(*c*) for enforcing drainage and promoting cleanliness and ventilation of such houses;

(*d*) for requiring provision adequate for the use of and readily accessible to each family of—

(i) closet accommodation;

(ii) water supply and washing accommodation;

(iii) accommodation for the storage, preparation, and cooking of food;

and, where necessary, for securing separate accommodation as aforesaid for every part of such house which is occupied as a separate dwelling;

(*e*) for the keeping in repair and adequate lighting of any common staircase in such houses;

(*f*) for securing stability, and the prevention of and safety from fire;

(*g*) for the cleansing and redecoration of the premises at stated times, and for the paving of the courts and courtyards;

(*h*) for the provision of handrails, where necessary, for all staircases of such houses;

(*i*) for securing the adequate lighting of every room in such houses;

(*j*) as respects houses situate in the administrative county of London, for the taking of precautions in the case of infectious disease;

and any such byelaws, in addition to any other penalty, may prohibit the letting for occupation by members of more than one family of any such house unless the same are complied with, subject in the case of houses so let or occupied at the time when such byelaws come into force to the allowance of a reasonable time for the execution of any works necessary to comply therewith.

(2) This section shall apply to the administrative county of London with the following modifications :—

(*a*) As respects the county of London, the byelaws for the purposes specified in subsection (1) of this section shall be made by the London County Council, and shall be observed and enforced by each metropolitan borough council except as regards byelaws for the purposes specified in paragraph (*f*) of subsection (1), which shall be enforced by the London County Council;

(*b*) As regards the City of London, such byelaws shall be made and enforced by the Common Council except as regards byelaws for the purposes specified in paragraph (*f*) of subsection (1), which shall be made and enforced by the London County Council.

Byelaws so made by the London County Council may provide that the byelaws shall, either generally or as respects any particular metropolitan borough or any part thereof, have effect subject to such modifications, limitations or exceptions as may be specified in the byelaws; and as soon as any such byelaws come into force, all byelaws made by the council of any metropolitan borough under section ninety-four of the Public Health (London) Act, 1891, shall cease to have effect, but the council of a metropolitan borough shall themselves have power at any time after such byelaws have been made by the London County Council to make byelaws under the said section ninety-four with respect to any houses or parts of houses in their area let in lodgings or occupied by members of more than one family to which the byelaws made by the London County Council do not apply.

(3) If in the opinion of the Minister premises are being occupied by members of more than one family or

are intended to be converted for such occupation in the district of any local authority and either no byelaws have been made by the local authority for the purposes specified in subsection (1) of this section, or the byelaws made are not sufficient properly to regulate such occupation or conversion, the Minister may himself make byelaws for such purposes, which shall have effect and shall be enforced as if they had been made by the local authority.

Execution of works to comply with byelaws.

7.—(1) Byelaws under the last foregoing section may impose the duty of executing any work required to comply therewith upon the owner within the meaning of the Public Health Acts of any such house, or upon any other person having an interest in the premises, and may prescribe the circumstances and conditions in and subject to which any such duty is to be discharged.

(2) For the purpose of discharging any duty so imposed, the owner or other person may at all reasonable times enter upon any part of the premises.

(3) Where an owner or other person has failed to execute any works which he has been required to execute under any such byelaws, the local authority by whom the byelaws are enforced may, after giving to him not less than twenty-one days' notice in writing, themselves execute the works and recover the costs and expenses, and for that purpose the provisions of section three of this Act with respect to the execution of works and the recovery of expenses by local authorities shall apply with such modifications as may be necessary.

(4) Where the person on whom obligations are imposed by any byelaws made for the purposes specified in subsection (1) of the preceding section with respect to houses intended or used for occupation as therein mentioned, holds the premises under a lease or agreement and satisfies the local authority that compliance with the byelaws is contrary to the provisions of the lease or agreement, or that the whole or any part of the expenses of carrying out the obligations ought to be borne by his lessor or other superior landlord, the local authority may make application to the county court, and the county court may, after giving the lessor or any other superior landlord an opportunity of being heard,—

(*a*) in the first case, order that the provisions of the lease or agreement be relaxed so far as they are

inconsistent with the requirements of the byelaws;

(*b*) in the second case, grant to the person who carries out the works necessary for compliance with the byelaws, on proof to the satisfaction of the local authority that the works have been properly carried out, a charging order charging on the premises an annuity to repay the expenses properly incurred in carrying out the works or such part of those expenses as the county court consider ought to be so charged.

(5) The annuity shall be of such amount and extend over such number of years as the county court may determine.

(6) Where a local authority have themselves acquired a leasehold interest in any house under the powers conferred upon them by this Act or any enactment repealed thereby, the Minister, on the application of the local authority, may make a similar order with regard to the relaxation of the provisions of the lease and to charging an annuity on the premises as might, had the lessee not been the local authority, have been made on the application of the local authority by the county court, and in that case the decision of the Minister as to the amount and duration of any such annuity shall be final.

Duty of Local Authority and Medical Officer of Health to Inspect Houses, &c.

Duty of local authority to inspect their district.

8. It shall be the duty of every local authority to cause an inspection of their district to be made from time to time with a view to ascertaining whether any dwelling-house therein is in a state so dangerous or injurious to health as to be unfit for human habitation, and for that purpose it shall be the duty of the local authority, and every officer of the local authority, to comply with such regulations and to keep such records as the Minister may prescribe.

Representation by medical officer of health.

9. It shall be the duty of the medical officer of health of every district to represent to the local authority of that district any dwelling-house which appears to him to be in a state so dangerous or injurious to health as to be unfit for human habitation.

Representation on complaint.

10. If any justice of the peace acting for a district, or the council of any parish in a district, or any four or more local government electors in a district, complain in writing to the medical officer of health of that district that any dwelling-house within the district is in a condition so dangerous or injurious to health as to be unfit for human habitation, he shall forthwith inspect the same and transmit to the local authority the complaint with his opinion thereon, and if he is of opinion that the dwelling-house is in the condition aforesaid, shall represent the same to the local authority, but the absence of any such complaint shall not excuse him from inspecting any dwelling-house and making a representation thereon to the local authority.

Closing and Demolition Orders.

Duty of local authority as to closing of house unfit for human habitation.

11.—(1) If, on the representation of the medical officer of health, or of any other officer of a local authority, or on other information given, any dwelling-house appears to the local authority to be in a state so dangerous or injurious to health as to be unfit for human habitation, the local authority shall make a closing order prohibiting the use of the house for human habitation until, in the judgment of the local authority, the house is rendered fit for that purpose.

(2) Notice of a closing order shall be forthwith served on every owner of the house in respect of which it is made, and any owner aggrieved by the order may appeal to the Minister by giving notice of appeal to the Minister within fourteen days after the notice is served upon him.

(3) Where a closing order has become operative, the local authority shall serve notice of the order on the person inhabiting the house in respect of which the order is made, and, within such period as is specified in the notice, not being less than fourteen days after the service of the notice, the order shall be obeyed by him, and he and his family shall cease to inhabit the house, and in default he may, on complaint to a court of summary jurisdiction, be ordered to quit the house within such time as may be specified in the order.

(4) Unless the house has been made unfit for habitation by the wilful act or default of the tenant or of any

person for whom as between himself and the owner or landlord he is responsible, the local authority may make to the tenant such reasonable allowance on account of his expense in removing as may be determined by the local authority with the consent of the owner of the house, or, if the owner of the house fails to consent to the sum determined by the local authority, as may be fixed by a court of summary jurisdiction, and the amount of the said allowance shall be recoverable by the local authority from the owner of the house summarily as a civil debt.

(5) The local authority shall determine any closing order made by them if they are satisfied that the house, in respect of which the order has been made, has been rendered fit for human habitation.

(6) If, on the application of any owner of a house, the local authority refuse to determine a closing order, the owner may appeal to the Minister by giving notice of appeal to the Minister within fourteen days after the application is refused.

Penalty on reletting house ordered to be closed.

12. If any owner of a dwelling-house in respect of which a closing order is in force, or any other person, lets or attempts to let, or occupies or permits to be occupied, the house or any part thereof as a dwelling-house, he shall on summary conviction be liable to a fine not exceeding twenty pounds, and in the event of the offence continuing after conviction thereof to a further fine not exceeding five pounds for each day during which the offence is continued after such conviction.

Recovery of possession of houses in respect of which closing orders made.
51 & 52 Vict. c. 43.
1 & 2 Vict. c. 74.

13.—(1) Where default is made as respects any dwelling-house in obeying a closing order, possession of the house may be obtained, whatever may be the value or rent of the house, by or on behalf of the owner or local authority, either under sections one hundred and thirty-eight to one hundred and forty-five of the County Courts Act, 1888, or under the Small Tenements Recovery Act, 1838, as in the cases therein provided for, and in either case may be obtained as if the owner or local authority were the landlord.

(2) Any expenses incurred by a local authority under this section may be recovered from the owner of the house summarily as a civil debt.

Order for demolition.

14.—(1) Where a closing order in respect of any dwelling-house has remained operative for a period of three months, the local authority shall take into consideration the question of the demolition of the house, and shall give every owner of the house notice of the time (being some time not less than one month after the service of the notice) and place at which the question will be considered, and any owner of the house shall be entitled to be heard when the question is so taken into consideration.

(2) If upon any such consideration the local authority are of opinion that the house has not been rendered fit for human habitation, and that the necessary steps are not being taken with all due diligence to render it so fit, or that the continuance of any building, being or being part of the house, is a nuisance or dangerous or injurious to the health of the public or of the inhabitants of the neighbouring houses, they shall order the demolition of the house or building.

(3) If any owner undertakes to execute forthwith the works necessary to render the house fit for human habitation, and the local authority consider that it can be so rendered fit for human habitation, the local authority may, if they think fit, postpone the operation of the order for such time, not exceeding six months, as they think sufficient for the purpose of giving the owner an opportunity of executing the necessary works, and if and when the necessary works are completed to their satisfaction, the local authority shall determine the closing and demolition orders relating to the house.

(4) Notice of an order for the demolition of a house or building shall be forthwith served on every owner of the house or building in respect of which it is made, and any owner aggrieved by the order may appeal to the Minister by giving notice of appeal to the Minister within twenty-one days after the notice is served upon him, or, where the operation of the order has been postponed for any period, within fourteen days after the expiration of that period.

Execution of demolition order.

15.—(1) Where an order for the demolition of a house or building has been made, the owner thereof shall within three months after the order becomes operative proceed to take down and remove the house or building,

and if the owner fails therein the local authority shall proceed to take down and remove the house or building and shall sell the materials, and after deducting the expenses incident to such taking down and removal, pay over the balance of money (if any) to the owner.

(2) Where the amount realised by the sale of such materials is not sufficient to cover the expenses incident to the taking down and removal of the house or building, the local authority may recover the deficiency from the owner of the house or building summarily as a civil debt, or under the provisions of the Public Health Acts, 1875 to 1907, relating to private improvement expenses.

(3) Where a house or building has been so taken down and removed, no house or other building or erection which will be dangerous or injurious to health shall be erected on the site of such house or building or any part thereof; and if any house, building, or erection is erected contrary to the provisions of this subsection, the local authority may at any time order the owner thereof to abate or alter the same, and in the event of non-compliance with the order, may themselves abate or alter the same, and the expenses of such abatement or alteration shall be recoverable from the owner summarily as a civil debt:

Provided that any person aggrieved by an order under this subsection may appeal to quarter sessions.

Grant of charges by way of annuity to owner on completion of works.

16.—(1) Where any owner has completed in respect of any dwelling-house any works required to be executed by an order of a local authority under this Part of this Act, he may apply to the local authority for a charging order, and shall produce to the local authority the certificate of their surveyor or engineer that the works have been executed to his satisfaction, and also the accounts of and vouchers for the costs, charges, and expenses of the works; and the local authority, when satisfied that the owner has duly executed such works, and of the amount of such costs, charges, and expenses, and of the costs of obtaining the charging order which have been properly incurred, shall make an order accordingly, charging on the house an annuity to repay the amount:

Provided that any person aggrieved by such an order may appeal to quarter sessions.

(2) The annuity charged shall be a sum of six pounds for every one hundred pounds of the said amount and so in proportion for any less sum, and shall commence from the date of the order, and be payable for a term of thirty years to the owner named in such order, his executors, administrators, or assigns.

(3) Copies of the charging order and of the certificate of the surveyor or engineer, and of the accounts as passed by the local authority, certified to be true copies by the clerk of the local authority, shall within six months after the date of the order be deposited with the clerk of the peace of the county in which the house is situate, and be by him filed and recorded.

Prohibition of back-to-back houses.

17.—(1) Notwithstanding anything in any local Act or byelaw in force in any borough or district, it shall not be lawful to erect any back-to-back houses intended to be used as dwellings for the working classes, and any such house shall be deemed to be in a state so dangerous or injurious to health as to be unfit for human habitation for the purposes of the provisions of this Act:

Provided that nothing in this section shall prevent the erection or use of a house containing several tenements in which the tenements are placed back to back if the medical officer of health for the district certifies that the several tenements are so constructed and arranged as to secure effective ventilation of all habitable rooms in every tenement.

(2) This section shall apply to any house commenced to be erected after the third day of December, nineteen hundred and nine, except that it shall not apply to houses abutting on any streets the plans whereof were approved by the local authority before the first day of May, nineteen hundred and nine, in any borough or district in which, on the third day of December, nineteen hundred and nine, any local Act or byelaws were in force permitting the erection of back-to-back houses.

Closing-order in respect of underground rooms.

18.—(1) A room habitually used as a sleeping place, the surface of the floor of which is more than three feet below the surface of the part of the street adjoining or nearest to the room, or more than three feet below the surface of any ground within nine feet of the room, shall for the purposes of this Part of this Act be deemed

to be a house so dangerous or injurious to health as to be unfit for human habitation, if the room either—

(*a*) is not on an average at least seven feet in height from floor to ceiling; or

(*b*) does not comply with such regulations as the local authority with the consent of the Minister may prescribe for securing the proper ventilation and lighting of such rooms, and the protection thereof against dampness, effluvia, or exhalation:

Provided that, if the local authority, after being required to do so by the Minister, fail to make such regulations, or such regulations as the Minister approves, the Minister may himself make them, and the regulations so made shall have effect as if they had been made by the local authority with the consent of the Minister.

(2) A closing order made in respect of a room to which this section applies shall not prevent the room being used for purposes other than those of a sleeping place; and, if the occupier of the room after notice of an order has been served upon him fails to comply with the order, an order to comply therewith may, on summary conviction, be made against him.

(3) A closing order made in respect of any room to which this section applies shall not be treated as a closing order in respect of a house for the purposes of the provisions of this Part of this Act relating to demolition orders.

Obstructive Buildings.

Power to local authority to order obstructive buildings to be pulled down.

19.—(1) If a medical officer of health finds that any building within his district, although not in itself unfit for human habitation, is so situate that by reason of its proximity to or contact with any other buildings it—

(*a*) stops or impedes ventilation or otherwise makes or conduces to make such other buildings to be in a condition unfit for human habitation or dangerous or injurious to health; or

(*b*) prevents proper measures from being carried into effect for remedying any nuisance injurious to health or other evils complained of in respect of such other buildings;

the medical officer of health shall represent to the local authority the particulars relating to such first-mentioned

building (in this Act referred to as "an obstructive building") stating that in his opinion it is expedient that the obstructive building should be pulled down.

(2) Any justice of the peace acting for a district, or the council of a parish in a district, or any four or more local government electors in a district may make to the local authority of the district a representation as respects any building to the like effect as that of the medical officer of health under this section.

(3) The local authority on receiving any such representation shall cause a report to be made to them respecting the circumstances of the building, and the cost of pulling down the building and acquiring the land, and on receiving such report shall take into consideration the representation and report, and if they decide to proceed, shall cause a copy of both the representation and report to be given to the owner of the land on which the obstructive building stands, with notice of the time and place appointed by the local authority for the consideration thereof; and such owner shall be at liberty to attend and state his objections, and after hearing such objections the local authority shall make an order either allowing the objection or directing that the obstructive building shall be pulled down.

(4) Any such order for the pulling down of an obstructive building shall be subject to appeal in like manner as an order of demolition made by the local authority under this Part of this Act.

Compensation for pulling down obstructive buildings.

20.—(1) Where an order of the local authority for pulling down an obstructive building is made under the last preceding section and either no appeal is made against the order, or an appeal is made and either fails or is abandoned, the local authority shall be authorised to purchase the land on which the obstructive building is erected in like manner as if they had been authorised by a special Act to purchase the same.

(2) For the purpose of such purchase the provisions of the Lands Clauses Acts with respect to the purchase and taking of lands otherwise than by agreement shall be deemed to be incorporated in this Part of this Act (subject nevertheless to the provisions of this Part of this Act), and for the purpose of the provisions of those Acts this Part of this Act shall be deemed to be the special Act,

and the local authority to be the promoters of the undertaking, and such lands may be purchased at any time within one year after the date of the order, or if it was appealed against after the date of the confirmation of the order.

(3) The owner of the land may within one month after notice to purchase the same is served upon him declare that he desires to retain the site of the obstructive building and undertake either to pull down or to permit the local authority to pull down the obstructive building, and in such case the owner shall retain the site and shall receive compensation from the local authority for the pulling down of the obstructive building.

(4) The amount of compensation to be paid on the purchase of any lands under this section, or for the pulling down of an obstructive building, shall in case of difference be settled by arbitration, and shall be apportioned by the arbitrator between any persons having an interest in the compensation in such manner as the arbitrator may determine.

(5) Where the local authority is empowered to purchase land compulsorily, it shall not be competent for the owner of a house or other building or manufactory to insist on his entire holding being taken where part only is proposed to be taken as obstructive, and where such part proposed to be taken can, in the opinion of the arbitrator to whom the question of disputed compensation is submitted, be severed from the remainder of the house or other building or manufactory without material detriment thereto, provided that compensation may be awarded in respect of the severance of the part so proposed to be taken in addition to the value of that part.

(6) Where in the opinion of the arbitrator the demolition of an obstructive building adds to the value of such other buildings as are mentioned in subsection (1) of the last foregoing section of this Act, the arbitrator shall apportion so much of the compensation to be paid for the demolition of the obstructive building as may be equal to the increase in value of the other buildings amongst such other buildings respectively, and the amount apportioned to each such other building in respect of its increase in value by reason of the demolition of the obstructive building shall be deemed to

be private improvement expenses incurred by the local authority in respect of the building, and the local authority may, for the purpose of defraying such expenses, make and levy improvement rates on the occupier of such premises accordingly; and the provisions of the Public Health Acts, 1875 to 1907, relating to private improvement expenses and to private improvement rates shall, so far as circumstances admit, apply accordingly in the same manner as if such provisions were incorporated in this Act.

(7) Where the amount to be paid for compensation for the purchase of any land under this section or for the demolition of an obstructive building has been settled otherwise than by arbitration, the power of apportioning the compensation under subsection (4) of this section, or of apportioning any part of the compensation amongst other buildings under subsection (6) of this section, may be exercised by an arbitrator appointed on the application of the local authority by the Minister for this special purpose:

Provided that, if the owner or occupier of any such other building feels aggrieved by the decision of such arbitrator as aforesaid by whom the apportionment is made as to the amount apportioned to the building, the matter shall, on application for the purpose being made by such owner or occupier, be settled by two justices in manner provided by the Lands Clauses Acts in cases where the compensation claimed in respect of land does not exceed fifty pounds.

Provisions as to arbitration.

21.—(1) In all cases in which the amount of any compensation is, in pursuance of this Part of this Act, to be settled by arbitration, the compensation shall be assessed in accordance with the rules set out in Parts II. and III. of the First Schedule to this Act so far as applicable to the case.

(2) On payment or tender to the person entitled to receive the same of the amount of compensation agreed or awarded to be paid in respect of any building, or on payment thereof in manner prescribed by the Lands Clauses Acts, the owner shall, when required by the local authority, convey his interest in the building to them, or as they may direct; and in default thereof, or if the owner fails to adduce a good title to the building to the satisfaction of the local authority, it shall be lawful for the local authority, if they think fit,

to execute a deed poll in such manner and with such consequences as are mentioned in the Lands Clauses Acts.

Provisions as to site after building demolished.

22.—(1) Where the owner retains the site or any part thereof, no house or other building or erection which will be dangerous or injurious to health, or which will be an obstructive building within the meaning of this Part of this Act, shall be erected upon the site or any part thereof; and if any house, building, or erection is erected on the site contrary to the provisions of this Part of this Act the local authority may at any time order the owner to abate or alter the said house, building, or erection; and in the event of non-compliance with such order may abate or alter the same, and the expenses of such abatement or alteration shall be recoverable from the owner summarily as a civil debt:

Provided that any person aggrieved by such an order may appeal to quarter sessions.

(2) Where the land on which the obstructive building is erected is purchased by the local authority they shall pull down the obstructive building, or such part thereof as may be obstructive within the meaning of this Part of this Act, and keep as an open space the whole site, or such part thereof as may be required to be kept open for the purpose of remedying the nuisance or other evils caused by the obstructive building, and may, with the assent of the Minister, and upon such terms as the Minister may think expedient, sell such portion of the site as is not required for the purpose of carrying this Part of this Act into effect.

(3) A local authority may, where they so think fit, dedicate any land acquired by them under the provisions of this Part of this Act relating to obstructive buildings as a highway or other public place.

Enforcement of Provisions of Part I.

Power of Minister on complaint to enforce exercise of powers.

23.—(1) Where a complaint is made to the Minister—

(*a*) as respects any rural district, by the council of the county in which the district is situate, or by the parish council or parish meeting of any parish comprised in the district, or by any justice of the peace acting for the district, or

by any four or more local government electors in the district; or

(*b*) as respects any county district not being a rural district, by the council of the county in which the district is situated, or by any justice of the peace acting for the district, or by any four or more local government electors in the district, or

(*c*) as respects the area of any other local authority, by any justice of the peace acting for a district in that area, or by any four or more local government electors in the area—

that the local authority have failed to exercise their powers under this Part of this Act in cases where those powers ought to have been exercised, the Minister may cause a public local inquiry to be held.

(2) If after holding such an inquiry the Minister is satisfied that there has been such a failure on the part of the local authority, the Minister may declare the authority to be in default, and may make an order directing that authority, within a time limited by the order, to carry out such works and do such other things as may be mentioned in the order for the purpose of remedying the default.

(3) Where an order originally made under this section on the council of a county district is not complied with by that council, the Minister may, if he thinks fit, with the consent of the county council, instead of enforcing that order against the council of the county district, make an order directing the county council to carry out any works or to do any other things which are mentioned in the original order for the purpose of remedying the default of the district council.

(4) Where the Minister makes an order under this section directing a county council to carry out any works or do any other thing, the order may, for the purpose of enabling the county council to give effect to the order, apply any of the provisions of this Act or of section sixty-three of the Local Government Act, 1894, with such modifications or adaptations (if any) as appear necessary or expedient.

56 & 57 Vict. c. 73.

(5) An order made by the Minister under this section shall be laid before both Houses of Parliament as soon as may be after it is made.

(6) An order made by the Minister under this section may be enforced by mandamus.

Powers of Minister as to enforcing orders relating to obstructive buildings, &c.

24.—(1) Where it appears to the Minister that a local authority have failed to give effect to any order as respects an obstructive building, or have failed to cause to be made the inspection of their district required by this Part of this Act, the Minister may make an order requiring the local authority to remedy the default and to carry out any works or do any other things which are necessary for the purpose within a time fixed by the order.

(2) Any order made by the Minister under this section may be enforced by mandamus.

Powers of county councils.

25.—(1) Where as respects any dwelling-house or building in a metropolitan borough or rural district, a representation or complaint has been made or information given to the council of the borough or district (hereinafter in this section referred to as the authority), or the medical officer thereof, by—

(*a*) the medical officer of health, sanitary inspector or other officer of the authority; or

(*b*) any four or more local government electors of the borough or district; or

(*c*) in the case of a rural district by the council of any parish in the district

that the dwelling-house is in a state so dangerous or injurious to health as to be unfit for human habitation, or that the building is an obstructive building; or where a closing order has been made as respects any dwelling-house, in a metropolitan borough or rural district, the authority shall forthwith forward to the council of the county in which the house or building is situate a copy of such representation, complaint, information, or closing order, and shall from time to time report to the county council such particulars as the county council require respecting any proceedings taken by the authority with reference to such representation, complaint, information, or house.

(2) Where the county council—

(*a*) are of opinion that a closing order should be made as respects any dwelling-house, or that an order ought to be made for the demolition of any buildings forming or forming part of

any dwelling-house as to which a closing order has been made, or that an order ought to be made for pulling down an obstructive building specified in any representation made under this Part of this Act; and

(*b*) after reasonable notice, not being less than one month, of such opinion having been given in writing to the authority, consider that the authority have failed to make the closing order, or the order for demolition, or to take steps for pulling down an obstructive building—

the county council may pass a resolution to that effect, and thereupon the powers of the authority as respects the said house and building under this Part of this Act shall be vested in the county council, and if a closing order or an order for demolition or for pulling down an obstructive building is made, and not disallowed on appeal, the expenses of the county council incurred as respects the said house and building, including any compensation paid, shall be a simple contract debt to the county council from the authority.

(3) The county council and any of their officers shall, for the purposes of this section, have the same right of admission to any premises as the authority or their officers have for the purpose of the execution of their duties under the enactments relating to public health, and a justice may make the like order for enforcing such admission.

(4) The clerk of a rural district council shall forward to the medical officer of health of the county a copy of any representation, complaint, information or closing order, a copy of which it is the duty of the district council to forward to the county council under this section.

(5) If any dispute or difference arises between the clerk of a district council and the medical officer of health of a county council under this section, the same shall be referred to the Minister, whose decision shall be final and binding.

(6) If the clerk of a district council fails to comply with the provisions of this section, he shall on information being laid by the county council, but not

otherwise, be liable on summary conviction in respect of each offence to a fine not exceeding ten pounds.

Inspection by county medical officer of health.

26. Where a representation is made to the Minister as respects any county district that the local authority have failed to exercise their powers under this Part of this Act, the Minister may direct the county council to instruct the medical officer of health of the county to inspect such district and to report to him as to the exercise of the powers aforesaid by the local authority.

Supplemental.

Appeal against order of local authority to quarter sessions in certain cases. 42 & 43 Vict. c. 49.

27. Where under this Part of this Act there is a right to appeal to quarter sessions against an order of a local authority, no proceedings shall be taken under the order until after the appeal is determined or ceases to be prosecuted; and section thirty-one of the Summary Jurisdiction Act, 1879, respecting appeals from courts of summary jurisdiction to courts of quarter sessions shall apply with the necessary modifications as if the order of the local authority were an order of a court of summary jurisdiction:

Provided that—

(*a*) notice of appeal may be given within one month after notice of the order of the local authority has been served on such person;

(*b*) the court shall, at the request of either party, state the facts specially for the determination of the High Court, in which case the proceedings may be removed into that court.

Private improvement expenses in London.

28. The provisions of the Public Health Acts, 1875 to 1907, relating to private improvement expenses and to private improvement rates shall, for the purposes of this Part of this Act, extend to the administrative county of London, and in the construction of the said provisions, as respects the county of London, any local authority in the county, and as respects the City of London the Common Council, shall be deemed to be the urban authority.

Provisions as to superior landlord.

29.—(1) An owner of any dwelling-house who is not the person in receipt of the rents and profits thereof may give notice to the local authority of his

interest in the house, and thereupon the local authority shall give him notice of any proceedings taken by them in pursuance of this Part of this Act in relation to the house.

(2) If it appears to a court of summary jurisdiction on the application of any owner of a dwelling-house in respect of which a closing order has been made, or of an obstructive building, that owing to the default of any other owner of the house or building in executing any works required to be executed on the house, or in the demolition of the house or building, or in claiming to retain the site of the building, in pursuance of this Part of this Act, the interests of the applicant will be prejudiced, and that it is just to make the order, the court may make an order empowering the applicant forthwith to enter on the house, and within the time fixed by the order to execute the said works, or to demolish the house or building, or to claim to retain the site, as the case may be, and where it seems to the court just so to do, the court may make a like order in favour of any other owner.

(3) A court of summary jurisdiction may in any case by order enlarge the time within which a claim may be made to retain the site of a building.

(4) Before an order is made under this section notice of the application shall be given to the local authority.

Power to authorise superior landlord to enter and execute works.

30.—(1) Where it is proved to the satisfaction of the court, on an application in accordance with rules of court of any person entitled to any interest in any land used in whole or in part as a site for houses for the working classes, that the premises on the land are or are likely to become dangerous or injurious to health or unfit for human habitation, and that the interests of the applicant are thereby prejudiced, the court may make an order empowering the applicant forthwith to enter on the land and within the time fixed by the order to execute such works as may be necessary, and may order that any lease or agreement for a lease held from the applicant and any derivative underlease shall be determined, subject to such conditions, and to the payment of such compensation, as the court may think just.

(2) The court shall include in its order provisions to secure that the proposed works are carried out, and

may authorise the local authority in whose area the land is situated to exercise such supervision or take such action as may be necessary for the purpose.

(3) For the purpose of this section, "court" means the High Court, and the Court of Chancery of the county palatine of Lancaster or Durham or the county court, where those courts respectively have jurisdiction.

Saving for remedies of owner for breach of covenant, &c.

31. Nothing in this Part of this Act shall prejudice or interfere with the right or remedies of any owner for the breach, non-observance, or non-performance of any covenant or contract entered into by a tenant or lessee in reference to any house in respect of which an order is made by a local authority under this Part of this Act; and if any owner is obliged to take possession of any house in order to comply with any such order, the taking possession shall not affect his right to avail himself of any such breach, non-observance, or non-performance that may have occurred prior to his so taking possession.

Provisions as to charging orders.

32.—(1) Every charge created by a charging order under this Part of this Act shall be in such form as the Minister may prescribe, and shall be a charge on the premises specified in the order having priority over all existing and future estates, interests and incumbrances, with the exception of—

(*a*) quitrents and other charges incident to tenure, tithe commutation rentcharge, and

(*b*) any charge on the premises created or arising under any provision of the Public Health Acts, or under any provision in any local Act authorising a charge for recovery of expenses incurred by a local authority, and

(*c*) any charge created under any Act authorising advances of public money;

and where more charges than one are charged under this Part of this Act on any premises such charges shall, as between themselves, take order according to their respective dates.

(2) A charging order shall be conclusive evidence that all notices, acts, and proceedings by this Part of this Act directed with reference to or consequent on the obtaining of such an order, or the making of such a charge,

have been duly served, done, and taken, and that the charge has been duly created, and that it is a valid charge on the premises declared to be subject thereto.

(3) Every annuity charged by any such charging order may be recovered by the person for the time being entitled to it by the same means and in the like manner in all respects as if it were a rentcharge granted by deed out of the premises by the owner thereof.

(4) The benefit of any such charge may be from time to time transferred in like manner as a mortgage or rentcharge may be transferred; and any such transfer may be in such form as the Minister may prescribe.

(5) Any owner of or other person interested in premises on which an annuity has been charged by any such charging order shall at any time be at liberty to redeem the annuity on payment to the person entitled to the annuity of such sum as may be agreed upon, or in default of agreement determined by the Minister.

(6) Every such charging order, if it relates to a house in Yorkshire, shall be registered in like manner as if the charge were made by deed by the absolute owner of the premises.

Representations by county medical officer.

33. A representation from the medical officer of health of any county submitted to the county council and forwarded by that council to the local authority of any district in the county, not being a municipal borough, shall, for the purposes of this Part of this Act, have the like effect as a representation from the medical officer of health of the district.

Local authorities for the purposes of Part I.

34. The local authority for the purposes of this Part of this Act shall, save as otherwise expressly provided in relation to the making and enforcement of byelaws—

(*a*) as respects the City of London, be the Common Council;

(*b*) as respects any other part of the administrative county of London, be the metropolitan borough council;

(*c*) elsewhere, be the borough or urban or rural district council.

Part II.

Improvement and Reconstruction Schemes.

Improvement Schemes.

Duty of local authority to make scheme for improvement of unhealthy area.

35.—(1) Where an official representation is made to a local authority as respects any area in the district of the authority either—

(*a*) that any houses, courts, or alleys within the area are unfit for human habitation, or

(*b*) that the narrowness, closeness, and bad arrangement, or the bad condition of the streets and houses or groups of houses within the area, or the want of light, air, ventilation, or proper conveniences, or any other sanitary defects, or one or more of such causes, are dangerous or injurious to the health of the inhabitants either of the buildings in the area or of the neighbouring buildings;

and that the most satisfactory method of dealing with the evils connected with such houses, courts, or alleys, and the sanitary defects in the area, is a scheme (hereinafter referred to as an improvement scheme) for the rearrangement and reconstruction of the streets and houses within the area, or of some of such streets or houses, the local authority shall take such representation into their consideration, and if satisfied of the truth thereof, and of the sufficiency of their resources, shall pass a resolution to the effect that the area is an unhealthy area and that an improvement scheme ought to be made in respect of the area, and after passing such a resolution they shall forthwith proceed to make a scheme for the improvement of the area.

(2) Any number of such areas may be included in one improvement scheme.

(3) The provisions of this Part of this Act relating to improvement schemes shall not apply to rural districts.

Official representations.

36.—(1) An official representation for the purposes of the preceding section shall mean a representation made to the local authority by the medical officer of health of that authority, or in London made either by such officer or by any medical officer of health in London.

(2) A medical officer of health shall make such a representation whenever he sees cause to make the same; and if any justice of the peace acting within the district, or any four or more local government electors in the district, complain to him of the unhealthiness of any area within such district, it shall be the duty of the medical officer of health forthwith to inspect the area and to make a report stating the facts of the case, and whether in his opinion the said area or any part thereof is or is not an unhealthy area, and if he considers the case one proper for making an official representation shall make such a representation.

Reconstruction Schemes.

Duty of local authority to make reconstruction schemes.

37. In any of the following cases—

(*a*) where an order for the demolition of a building has been made in pursuance of Part I. of this Act and it appears to the local authority that it would be beneficial to the health of the inhabitants of the neighbouring houses if the area of which such building forms part were used for all or any of the following purposes,—

(i) dedicated as a highway or open space, or

(ii) appropriated, sold, or let for the erection of houses for the working classes, or

(iii) exchanged with other neighbouring land which is more suitable for the erection of such houses, and which on exchange will be appropriated, sold, or let for such erection; or

(*b*) where it appears to the local authority that the closeness, narrowness, and bad arrangement or bad condition of any buildings, or the want of light, air, ventilation, or proper conveniences, or any other sanitary defect in any buildings is dangerous or prejudicial to the health of the inhabitants either of the said buildings or of the neighbouring buildings,

and that the most satisfactory method of dealing with the said evils is by the demolition or the reconstruction or re-arrangement of the said buildings or of some of them, and that the area comprising those buildings and the yards, outhouses, and appurtenances thereof, and the site thereof, is too small to be dealt with by an improvement scheme;

the local authority shall pass a resolution to the above effect and direct a scheme (hereinafter referred to as a reconstruction scheme) to be prepared for the improvement of the said area.

Provisions as to Improvement and Reconstruction Schemes.

Requisites for improvement and reconstruction schemes.

38.—(1) An improvement or reconstruction scheme of a local authority shall be accompanied by maps, particulars, and estimates, and—

(*a*) may exclude any part of the area in respect of which the resolution was passed or include any neighbouring lands, if the local authority are of opinion that such exclusion is expedient or inclusion is necessary for making their scheme efficient; and

(*b*) may provide for widening any existing approaches to the unhealthy area or otherwise for opening out the same for the purposes of ventilation or health; and

(*c*) shall provide for proper sanitary arrangements; and

(*d*) may provide for any other matter (including the closing and diversion of highways) for which it seems expedient to make provision with a view to the improvement of the area or the general efficiency of the scheme.

(2) The scheme shall distinguish the lands proposed to be taken compulsorily.

(3) The scheme may also provide for the scheme or any part thereof being carried out and effected under the superintendence and control of the local authority by

any person having such interest in any property comprised in the scheme as may be sufficient to enable him to carry out and effect the same upon such terms and conditions to be embodied in the scheme as may be agreed upon between the local authority and such person.

(4) Where by or in consequence of an improvement or reconstruction scheme persons of the working classes in the area affected by the scheme will be displaced, the scheme shall, if the Minister so requires (but it shall not otherwise be obligatory on the local authority so to frame their scheme), provide for the accommodation of such number of such persons so displaced in suitable dwellings to be erected in such place or places either within or without the limits of the same area as the Minister on a report made by the officer conducting the local inquiry hereinafter mentioned may require.

(5) A local authority may, for the purpose of providing such accommodation, appropriate any lands for the time being belonging to them which are suitable for the purpose, or may purchase by agreement any such further lands as may be convenient.

Publications of notices, &c.

39. As soon as an improvement or reconstruction scheme has been prepared the local authority shall forthwith—

(*a*) publish, in a newspaper circulating within the district of the local authority, an advertisement stating the fact of such a scheme having been made, the limits of the area comprised therein, and naming a place within that area or in the vicinity thereof where a copy of the scheme may be seen at all reasonable hours; and

(*b*) serve a notice on every owner or reputed owner, lessee or reputed lessee, and occupier (except tenants for a month or a less period than a month) of any lands proposed to be taken compulsorily, so far as such persons can reasonably be ascertained, stating that such lands are proposed to be taken compulsorily for the purpose of such a scheme, and in the case of any owner or reputed owner, lessee or reputed lessee, requiring an answer stating whether the person so served dissents or not in respect of taking such lands.

Confirmation of improvement and reconstruction schemes.

40.—(1) Upon compliance with the foregoing provisions with respect to the publication of an advertisement and the service of notices, the local authority shall present a petition to the Minister praying that an order may be made confirming such scheme.

(2) The petition shall be accompanied by a copy of the scheme, and shall state the names of any owners or reputed owners, or lessees or reputed lessees, who have dissented in respect of the taking of their lands, and shall be supported by such evidence as the Minister may from time to time require.

(3) The Minister after considering the petition may cause a local inquiry to be held, and, if satisfied on the report thereon that the circumstances are such as to justify the making of the scheme and that the carrying into effect of the scheme either absolutely, or subject to conditions or modifications, would be beneficial to the health of the inhabitants of the area in question or of the neighbouring dwelling-houses, may by order confirm the scheme with or without such conditions or modifications, so however that no addition shall be made to the lands proposed in the scheme to be taken compulsorily.

(4) The order may incorporate the provisions of the Lands Clauses Acts, and for the purpose of those provisions this Act shall be deemed to be the special Act, and the local authority to be the promoters of the undertaking, and the land comprised in the area shall be acquired within three years after the date of the making of the order:

Provided that the amount of compensation shall, in case of difference, be settled by arbitration as hereinafter provided, and that the Lands Clauses Acts as so incorporated shall have effect subject to the provisions of the Second Schedule to this Act.

(5) The order of the Minister when made shall have effect as if enacted in this Act.

(6) It shall be the duty of the local authority to serve a notice of any order so made in the manner and upon the persons in which and upon whom notices in respect of lands proposed to be taken compulsorily are required by this Part of this Act to be served.

Provisions as to costs.

41.—(1) The Minister may make such order as he thinks fit in favour of any person whose lands were proposed by the scheme to be taken compulsorily for the allowance of the reasonable costs, charges and expenses properly incurred by him in opposing such scheme.

(2) All costs, charges, and expenses incurred by the Minister in relation to any order under the last preceding section shall, to such amount as the Minister thinks proper to direct, and all costs, charges, and expenses of any person to such amount as may be allowed to him by the Minister in pursuance of the aforesaid power, shall be deemed to be an expense incurred by the local authority under this Part of this Act, and shall be paid to the Minister and to such person respectively in such manner and at such times and either in one sum or by instalments as the Minister may order, with power for the Minister to direct interest to be paid at such rate not exceeding five pounds per centum per annum as the Minister may determine, upon any sum for the time being due in respect of such costs, charges, and expenses as aforesaid.

(3) Any order made by the Minister in pursuance of this section may be made a rule of the High Court, and be enforced accordingly.

Execution of Improvement and Reconstruction Schemes.

Duty of local authority to carry scheme when confirmed into execution.

42.—(1) When an order confirming any improvement or reconstruction scheme of a local authority has been made by the Minister, it shall be the duty of the local authority to take steps for purchasing the land required for the scheme, and otherwise for carrying the scheme into execution as soon as practicable:

Provided that the local authority shall not be required to acquire any leasehold interest in any property comprised in a scheme which can be allowed to expire without unduly delaying the execution of the scheme.

(2) The local authority may sell or let all or any part of the area comprised in the scheme to any purchasers or lessees for the purpose, and under the condition, that such purchasers or lessees will, as respects the land so purchased by or leased to them, carry the

scheme into execution; and in particular they may insert in any grant or lease of any part of the area provisions—

(*a*) binding the grantee or lessee to build thereon as in the grant or lease prescribed, and to maintain and repair the premises thereon; and

(*b*) prohibiting the division of such premises, and any addition to or alteration of the character of such premises without the consent of the local authority; and

(*c*) for the revesting of the land in the local authority, or their re-entry thereon, on breach of any provision in the grant or lease.

(3) The local authority may also engage with any body of trustees, society, or person, to carry the whole or any part of the scheme into effect upon such terms as the local authority may think expedient.

(4) The local authority shall not themselves, without the express approval of the Minister, undertake the rebuilding of any premises or the execution of any part of the scheme, except that they may take down any or all of the premises upon the area, and clear the whole or any part thereof, and may lay out, form, pave, sewer, and complete all such streets upon the land purchased by them as they may think fit, and all streets so laid out and completed shall thenceforth be public streets repairable by the same authority as other streets in the district.

(5) The local authority shall, in any grant or lease of any part of the area which may be appropriated by the scheme for the erection of dwelling-houses for the working classes, impose suitable conditions and restrictions as to the elevation, size, and design of the houses, and the extent of the accommodation to be afforded thereby, and shall make due provision for the maintenance of proper sanitary arrangements.

(6) The local authority may, where they think it expedient so to do, without themselves acquiring the land, or after or subject to their acquiring any part thereof, contract with any person, being a person having such interest in any land comprised in the scheme as may be sufficient to enable him to do so, for the carrying of the scheme into effect by him in respect of such land.

(7) Where any premises or any part of any premises purchased by the local authority in pursuance of a scheme are not closed by a closing order, and are occupied by any tenant whose contract of tenancy is for less than a year, the local authority, if they require him to give up possession of such premises or part for the purpose of pulling down the premises, may make to the said tenant a reasonable allowance on account of his expenses in removing.

Completion of scheme on failure by local authority.

43.—(1) If within five years after the removal of any buildings on the land set aside by any improvement or reconstruction scheme confirmed under this Part of this Act as sites for dwelling-houses for the working classes the local authority have failed to sell or let the land for the purposes prescribed by the scheme, or have failed to make arrangements for the erection of such houses, the Minister may order the land to be sold.

(2) The order shall require the land to be sold by public auction or public tender, with full power to fix a reserve price, subject to the conditions imposed by the scheme and to any modifications thereof which may be made in pursuance of this Part of this Act, and to a special condition on the part of the purchaser to erect upon the land houses for the working classes in accordance with plans to be approved by the local authority, and subject to such other reservations and regulations as the Minister may deem necessary.

Power of Minister to modify confirmed scheme.

44. The Minister, on the application of the local authority, and on its being proved to his satisfaction that an improvement can be made in the details of any improvement or reconstruction scheme confirmed under this Part of this Act, may permit the local authority to modify any part of the scheme either by the abandonment of any part thereof which it may appear inexpedient to carry into execution, or by amending or adding to the scheme in matters of detail in such manner as appears to him expedient, but any part of the scheme respecting the provision of dwelling-houses for the working classes, when so modified, shall be such as might have been inserted in the original scheme.

Extinction of rights of way and

45. Upon the purchase by the local authority of any land required for the purpose of carrying into effect any improvement or reconstruction scheme under this Part

of this Act, all rights of way, rights of laying down or of continuing any pipes, sewers, or drains on, through, or under such lands, or part thereof, and all other rights or easements in or relating to such lands, or any part thereof, shall, save as hereinafter provided, be extinguished, and all the soil of such ways, and the property in the pipes, sewers, or drains, shall vest in the local authority, subject to this provision, that compensation shall be paid by the local authority to any persons or bodies of persons proved to have sustained loss by this section, and such compensation shall be determined under and in accordance with the Acquisition of Land (Assessment of Compensation) Act, 1919: other easements. 9 & 10 Geo. 5. c. 57.

Provided that any such scheme may, with the consent of the person or body of persons entitled to any such right or easement, provide for any exceptions, restrictions, or modifications in the application of this section to that right or easement, and this section shall take effect subject to any such exceptions, restrictions, or modifications.

Provisions as to Compensation.

46.—(1) Where land included in any improvement or reconstruction scheme made under this Part of this Act or the corresponding provisions of any Act repealed by this Act (other than land included in such a scheme only for the purpose of making the scheme efficient and not on account of the sanitary condition of the premises thereon or of those premises being dangerous or prejudicial to health) is acquired compulsorily, the compensation to be paid for the land, including any buildings thereon, shall be the value at the time the valuation is made of the land as a site cleared of buildings and available for development in accordance with the requirements of the building byelaws for the time being in force in the district: Provisions as to assessment of compensation.

Provided that, if in the opinion of the Minister it is necessary that provision should be made by the scheme for the re-housing of persons of the working classes on the land or part thereof when cleared, or that the land or a part thereof when cleared should be laid out as an open space, the compensation payable to all persons interested in any land included in the scheme (other than as

Repealed as to orders made on or after 20th Dec 1934 by s. 62 of the Housing Act 1935

aforesaid) for their respective interests therein shall be reduced by an amount ascertained as follows :—

(*a*) the value of the whole of the land included in the scheme shall first be ascertained on the basis of its value as a cleared site available for development in accordance with the requirements of the building byelaws in force in the district;

(*b*) the value of the whole of the said land shall next be ascertained on the basis of its value as a cleared site subject to the requirements of the scheme as to the provision to be made for the re-housing of persons of the working classes or the laying out of open spaces on the land or any part thereof;

(*c*) the difference between the amounts ascertained under paragraphs (*a*) and (*b*) shall then be computed;

(*d*) the amount by which the compensation payable for the respective interests in the land to which the foregoing provisions of this section apply, as ascertained in accordance with the principle laid down in those provisions, is to be reduced shall be a fraction thereof equal to the amount arrived at under paragraph (*c*) when divided by the amount arrived at under paragraph (*a*).

(2) Subject as aforesaid, the compensation to be paid for such land shall be assessed in accordance with the Acquisition of Land (Assessment of Compensation) Act, 1919.

(3) In the case of land and premises included in an improvement or reconstruction scheme only for the purpose of making the scheme efficient and not on account of the sanitary condition of the premises thereon, or of those premises being dangerous or prejudicial to health, the compensation to be paid shall be assessed in accordance with the rules contained in Part I. of the First Schedule to this Act.

Provisions as to licensed premises included in schemes.

47. Where the land included in an improvement or reconstruction scheme, whether made before or after the passing of this Act, comprises premises in respect of which an old on-licence is in force, the following provisions shall have effect :—

(1) The local authority by whom the scheme is made may undertake that in the event of the

renewal of the licence being refused they will pay to the compensation authority towards the compensation payable on such refusal under the Licensing (Consolidation) Act, 1910, such contribution as may be specified in the undertaking, and any sum payable by the local authority in pursuance of such undertaking shall be treated as part of their expenses in carrying out the scheme: 10 Edw. 7. c. 24.

(2) Where the local authority acquire the premises in pursuance of the scheme and the local authority intimate to the licensing justices that they are willing to surrender the licence, the licensing justices may refer the matter to the compensation authority, and that authority, on being satisfied that if the licence had not been surrendered it might properly have been dealt with as a redundant licence, or that when the proposed scheme had been carried out it would have become a licence which might have been so dealt with, shall contribute out of the compensation fund towards the compensation paid by the local authority in respect of the acquisition of the premises a sum not exceeding the compensation which would have been payable under the Licensing (Consolidation) Act, 1910, on the refusal of the renewal of the licence.

Enforcement of Provisions of Part II.

Inquiry by Minister on complaint of default of medical officer.

48.—(1) Where in any district complaint has been made to a medical officer of health of the unhealthiness of any area within that district by any person or persons competent under the foregoing provisions of this Part of this Act to make such a complaint, and the medical officer of health has failed to inspect such area or to make an official representation with respect thereto, or has made a report to the effect that in his opinion the area is not an unhealthy area, the complainant or complainants, as the case may be, or any four or more local government electors in the district, may apply to the Minister, and the Minister may appoint any inspector or officer of the Ministry of Health or other person employed by him to inspect the area, and to make representation to him stating the facts of the case, and

whether, in his opinion, the area or any part thereof is or is not an unhealthy area.

The representation so made shall be transmitted by the Minister to the local authority, and if it states that the area is an unhealthy area the local authority shall proceed therein in the same manner as if it were an official representation made to that authority.

(2) The Minister shall make such order as to the costs of the inquiry as he may think just, with power to require the whole or any part of such costs to be paid by the appellants where the person appointed to make the inspection is of opinion that the area is not an unhealthy area, and to declare the whole or any part of such costs to be payable by the local authority where he is of opinion that the area or any part thereof is an unhealthy area.

(3) Any order made by the Minister in pursuance of this section may be made a rule of the High Court, and be enforced accordingly.

Inspection by county medical officer of health.

49. Where a representation is made to the Minister as respects any county district that the local authority have failed to exercise their powers under this Part of this Act, the Minister may direct the county council to instruct the medical officer of health of the county to inspect the district and to make a report to the Minister as to the exercise of the powers aforesaid by the local authority.

Inquiry by Minister on refusal of local authority to make an improvement scheme.

50.—(1) Where an official representation is made to the local authority with a view to their passing a resolution in favour of an improvement scheme, and they fail to pass any resolution in relation to such representation, or pass a resolution to the effect that they will not proceed with such scheme, the local authority shall, as soon as possible, send a copy of the official representation, accompanied by their reasons for not acting upon it, to the Minister, and, upon the receipt thereof, the Minister may direct a local inquiry to be held, and a report to be made to him with respect to the correctness of the official representation made to the local authority, and any matters connected therewith on which the Minister may desire to be informed.

(2) If, on the report made to the Minister on an inquiry directed by him under this section, he is satisfied that a scheme ought to have been made for the improvement of the area to which the inquiry relates, or of some

part thereof, he may, if he thinks fit, order the local authority to make either an improvement or a reconstruction scheme as he may think fit, and to do all things necessary under this Act for carrying into execution the scheme so made, and the local authority shall accordingly make a scheme or direct a scheme to be prepared as if they had passed the resolution required under this Part of this Act in relation to the scheme in question, and do all things necessary under this Act for carrying the scheme into effect.

(3) Any such order of the Minister may be enforced by mandamus.

Power of Minister to order schemes, &c. to be carried out within a limited time.

51.—(1) Where it appears to the Minister that a local authority have failed to perform their duty under this Act of carrying out any scheme made under this Part of this Act, the Minister may make an order requiring the local authority to remedy the default and to carry out any works or do any other things which are necessary for the purpose under this Act within a time fixed by the order.

(2) Any order made by the Minister under this section may be enforced by mandamus.

Power of Minister to order schemes to be made

52.—(1) Without prejudice to any other powers for enforcing the provisions of this Part of this Act, where the Minister is satisfied that any area within the district of a local authority is an area in respect of which the local authority ought to exercise their powers under this Part of this Act, the Minister may by order require the local authority to make either an improvement scheme or a reconstruction scheme under this Part of this Act for the improvement of that area and to do all things necessary under this Act for carrying into execution the scheme so made.

(2) If the local authority fail within such time as may be prescribed by the order to make an improvement or reconstruction scheme to the satisfaction of the Minister, and to carry the scheme into execution, the Minister may either by order empower the county council to make and carry out a scheme, or himself make and take such steps as may be necessary to carry out a scheme.

(3) Where the Minister makes an order under this section, the order may, for the purpose of enabling the

county council to give effect to the order, apply any of the provisions of this Act or section sixty-three of the Local Government Act, 1894, with such modifications and adaptations as appear necessary or expedient:

Provided that the local authority shall be entitled to appeal to the Minister if, in their opinion, the amount of the expenses which the county council require them to defray or propose to charge against their district is excessive or unreasonable, or against any refusal by a county council to make an order under the said section sixty-three vesting in the local authority all or any of the powers, duties, property, debts, and liabilities of the county council in relation to the powers transferred to them, and upon any such appeal the Minister may make such order as he may deem just, and an order so made shall be binding on the county council and the local authority.

(3) Where the Minister himself makes and carries out a scheme, he shall for that purpose have all the powers of a local authority under this Part of this Act, and this Act shall, with the necessary modifications and adaptations, apply accordingly; and any expenses incurred by the Minister in the exercise of such powers as aforesaid shall in the first instance be paid out of moneys provided by Parliament; but the amount certified by the Minister to have been so expended and to be properly payable by the local authority shall, on demand, be paid to the Minister by the local authority, and shall be recoverable as a debt due to the Crown.

Supplemental.

Power to authorise superior landlord to enter and execute works.

53.—(1) Where it is proved to the satisfaction of the Court, on an application in accordance with rules of court of any person entitled to any interest in any land used in whole or in part as a site for dwelling-houses for the working classes, that the applicant should be entrusted with the carrying out of a scheme of improvement or reconstruction approved by the local authority of the district in which the land is situate, the court may make an order empowering the applicant forthwith to enter on the land and within the time fixed by the order to execute such works as may be necessary, and may order that any lease or agreement for a lease held from the applicant and any derivative underlease shall be determined,

subject to such conditions and to the payment of such compensation as the court may think just.

(2) The court shall include in its order provisions to secure that the proposed works are carried out and may authorise the local authority in whose area the land is situated or which has approved a scheme of improvement or reconstruction under this section, to exercise such supervision or take such action as may be necessary for the purpose.

(3) For the purposes of this section "court" means the High Court, and the Court of Chancery of the county palatine of Lancaster or Durham or the county court, where those courts respectively have jurisdiction.

Power to acquire in advance lands in areas proposed for inclusion in schemes.

54. Where a local authority have passed a resolution that an improvement or reconstruction scheme ought to be made in respect of any area, the local authority may, with the consent of and subject to any conditions imposed by the Minister, acquire by agreement any lands included within the area, notwithstanding that the scheme may not at the time of acquisition have been made by the local authority or confirmed by the Minister.

Power of London County Council to acquire additional land by agreement.

55. In the case of an improvement scheme prepared by the London County Council under this Part of this Act or the corresponding provisions of any Act repealed by this Act, where for the purpose of improving or adding to the area included in the scheme the council find it expedient to acquire any additional land adjoining the area, it shall be lawful for the council, with the consent of the Minister, to purchase such additional land by agreement.

Local authorities for the purposes of Part II.

56.—(1) The local authority for the purposes of this Part of this Act, shall—

(*a*) as respects the city of London, be the Common Council;

(*b*) as respects any other part of the administrative county of London, be both the London County Council and the metropolitan borough council;

(*c*) elsewhere, be the borough or district council:

Provided that a rural district council shall not be a local authority for the purposes of the provisions of this Part of this Act relating to improvement schemes,

and that as respects the county of London the provisions hereinafter contained shall have effect for determining whether in any particular case the London County Council or the metropolitan borough council shall be the local authority to act in the matter.

(2) Where an official representation or proposed scheme relates to not more than ten houses, the metropolitan borough council, to the exclusion of the London County Council, shall be the local authority, and accordingly where an official representation relating to not more than ten houses is made to the London County Council, the county council shall direct the medical officer of health to make representations to the council of the metropolitan borough in which the houses are situate, and it shall thereupon be the duty of the borough council to deal with the case by means of an improvement or reconstruction scheme in manner provided by this Part of this Act.

(3) Where in relation to any area—

(*a*) an official representation has been made, or proposals for a reconstruction scheme have been submitted, to the London County Council in relation to any area, and that council resolve that the case is not one of general importance to the county of London and should be dealt with by the metropolitan borough council in which the area is situate; or

(*b*) an official representation has been made, or proposals for a reconstruction scheme have been submitted, to a metropolitan borough council, and that council resolve that the case is one of such general importance to the county of London that it should be dealt with by the London County Council;

the county council or borough council, as the case may be, may submit the resolution to the Minister, and thereupon the Minister may appoint an arbitrator and direct him to hold a local inquiry.

The arbitrator shall hold such an inquiry and report to the Minister as to whether having regard to the size of the area and the number of houses to be dealt with, the position, structure and sanitary condition of the houses and of the neighbourhood thereof, the case is

wholly or partially, of any and of what importance to the county of London; and the arbitrator shall have power to report that in the event of the case being dealt with by the London County Council the metropolitan borough council ought to make a contribution with respect to the expenses of dealing with the case, or, as the case may be, that in the event of the case being dealt with by the metropolitan borough council, the London County Council ought to make a contribution with respect to the expenses of dealing with the case.

The Minister, after considering the report of the arbitrator, may decide that the case shall be dealt with either by the London County Council or by the metropolitan borough council, and whether any and what contribution should be made by the one council to the other, and the medical officer of health, or other proper officer, shall forthwith make the representation necessary for the case to be dealt with in accordance with such decision.

(4) The London County Council and the Common Council of the City of London may at any time enter into an agreement for carrying out any improvement scheme for the purposes of this Part of this Act, and for the apportionment of the expenses incurred in carrying out the scheme.

Part III.

Provision of Houses for the Working Classes.

General Powers of Local Authorities.

Provision of housing accommodation for working classes.

57.—(1) A local authority may provide housing accommodation for the working classes—

(*a*) by the erection of dwelling-houses on any land acquired or appropriated by them;

(*b*) by the conversion of any buildings into dwelling-houses for the working classes;

(*c*) by acquiring houses suitable for the purpose;

(*d*) by altering, enlarging, repairing, or improving any houses or buildings on land acquired as a site for the erection of dwelling-houses for the working classes, or any other houses an estate or interest wherein has been acquired by the local authority.

Except where the local authority is a rural district council, any such powers as aforesaid may, for supplying the needs of the district, be exercised outside the district of the local authority.

(2) The local authority may alter, enlarge, repair or improve any house so erected, converted, or acquired, and may fit out, furnish and supply any such house with all requisite furniture, fittings, and conveniences.

(3) A local authority may for the purposes of this Part of this Act, exercise the same powers, whether of contract or otherwise, as in the execution of their duties under the Public Health Acts, or, in the case of the London County Council, under the Metropolis Management Acts, 1855 to 1893, or, in the case of the Common Council of the City of London, under the City of London (Sewers) Acts, 1848 to 1897.

(4) For the purpose of this Part of this Act "provision of housing accommodation" includes the provision of lodging-houses, and separate houses or cottages containing one or several tenements, and, in the case of a cottage, a cottage with a garden of not more than one acre.

Purposes for which land may be acquired by a local authority.

58.—(1) A local authority shall have power under this Part of this Act—

(*a*) to acquire any land, including any houses or other buildings thereon, as a site for the erection of dwelling-houses for the working classes;

(*b*) to acquire any estate or interest in any houses which may be made suitable as dwelling-houses for the working classes, together with any lands occupied with such houses;

(*c*) to acquire land for the purpose of—

(i) the lease or sale of the land, under the powers conferred by this Act, with a view to the erection thereon of dwelling-houses for the working classes by persons other than the local authority;

(ii) the lease or sale under the powers conferred by this Act of any part of the land acquired with a view to the use thereof for purposes which in the opinion of the local authority are necessary or desirable for or incidental to the development of the land as a building estate, including the provision, maintenance, and improvement of

houses and gardens, factories, workshops, places of worship, places of recreation, and other works or buildings for or for the convenience of persons belonging to the working classes and other persons.

(2) Subject to the consent of the Minister and to such conditions as he may prescribe, a local authority may, for the purposes of this Part of this Act, acquire by agreement (but not otherwise), or contract for a lease to them of, dwelling-houses suitable for the working classes, whether built at the date of the contract or intended to be built thereafter.

(3) A local authority may, with the consent of and subject to any conditions imposed by the Minister, acquire land by agreement (but not otherwise) for the purposes of this Part of this Act, notwithstanding that the land is not immediately required for those purposes.

Powers of dealing with land acquired.

59.—(1) Where a local authority have acquired or appropriated any land for the purposes of this Part of this Act, then, without prejudice to any of their other powers under this Act, the authority may—

(*a*) lay out and construct public streets or roads and open spaces on the land;

(*b*) with the consent of the Minister sell or lease the land or part thereof to any person for the purpose and under the condition that that person will erect and maintain thereon such number of dwelling-houses suitable for the working classes as may be fixed by the local authority in accordance with plans approved by them, and when necessary will lay out and construct public streets or roads and open spaces on the land, or will use the land for purposes which, in the opinion of the local authority, are necessary or desirable for or incidental to the development of the land as a building estate in accordance with plans approved by the local authority, including the provision, maintenance, and improvement of houses and gardens, factories, workshops, places of worship, places of recreation and other works or buildings for, or for the convenience of, persons belonging to the working classes and other persons;

(*c*) with the consent of the Minister sell the land or exchange it for land better adapted for those

purposes, either with or without paying or receiving any money for equality of exchange;

(*d*) with the consent of the Minister sell or lease any houses on the land or erected by them on the land, subject to such covenants and conditions as they may think fit to impose either in regard to the maintenance of the houses as dwelling-houses for the working classes or otherwise in regard to the use of the houses, and upon any such sale they may, if they think fit, agree to the price being paid by instalments or to a payment of part thereof being secured by a mortgage of the premises.

(2) Where a local authority under this section sell or lease land, the local authority may contribute towards the expenses of the development of the land and the laying out and construction of streets thereon, subject to the condition that the streets are dedicated to the public.

(3) Land and houses sold or leased under the provisions of this section shall be sold or leased at the best price or for the best rent that can reasonably be obtained, having regard to any condition imposed, and any capital money received in respect of any transaction under this section shall be applied in or towards the purchase of other land for the purposes of this Part of this Act, or with the consent of the Minister to any purpose, including the repayment of borrowed money, to which capital money may be properly applied.

(4) For the purposes of this section, "sale" includes sale in consideration of a chief rent, rentcharge or other similar periodical payment, and "sell" has a corresponding meaning.

Schemes for the provision of Houses for the Working Classes.

Duty of local authority to prepare housing schemes.

60.—(1) It shall be the duty of every local authority to consider the needs of their area with respect to the provision of housing accommodation for the working classes, and as often as occasion arises, or within three months after notice has been given to them by the Minister, to prepare and submit to the Minister a scheme for the exercise of their powers under this Part of this Act.

(2) A scheme under this section shall specify—

(*a*) the approximate number and the nature of the houses to be provided by the local authority;

(*b*) the approximate quantity of land to be acquired and the localities in which land is to be acquired;

(*c*) the average number of houses per acre;

(*d*) the time within which the scheme or any part thereof is to be carried into effect;

and the scheme may contain such incidental, consequential and supplemental provisions (including provisions as to the subsequent variation of the scheme) as may appear necessary or proper for the purpose of the scheme.

(3) The Minister may approve any such scheme or any part thereof without modification or subject to such modifications as he may think fit, and the scheme or part thereof when so approved shall be binding on the local authority; but if the Minister considers the scheme inadequate he may refuse to approve the scheme and require the authority to prepare and submit to him an adequate scheme within such time as he may fix, or he may approve the scheme or part thereof subject to the condition that the authority prepare and submit to him a further scheme within such time as he may fix:

Provided that local authorities in preparing, and the Minister in approving, any scheme shall take into account, and so far as possible preserve, existing erections of architectural, historic, or artistic interest, and shall have regard to the natural amenities of the locality, and, in order to secure that the houses proposed to be built under the scheme shall be of a suitable architecture and that the natural amenities of the locality shall not be unnecessarily injured, the Minister may, in any case where it appears to him that the character of the locality renders such a course expedient, require as a condition of his approval the employment by the local authority of an architect to be selected from a panel of architects nominated for the purpose by the Royal Institute of British Architects.

(4) Before the Minister finally approves a scheme, the local authority shall furnish to him estimates of the cost of the scheme and of the rents expected to be derived from the houses provided under the scheme.

(5) If the Minister considers as respects any local authority that an occasion for the preparation of a new scheme has arisen, he shall give notice to that effect to the local authority, and thereupon such an occasion shall be deemed to have arisen.

(6) Where the local authorities concerned or the Minister are of opinion that a scheme should be made affecting the areas of two or more local authorities, such a scheme shall be prepared by the local authorities jointly and the local authority of each area to which any part of any such joint scheme applies may, or, if the Minister after giving the local authority an opportunity of being heard so directs, shall carry out that part of the joint scheme, and for the purposes of this subsection "local authority" shall, in any case where the Minister consents and subject to any conditions which he may prescribe, include a county council.

(7) Local authorities in preparing, and the Minister in approving, schemes shall make inquiry respecting and take into account any proposals by other bodies and persons to provide housing accommodation.

Duty of local authority to carry out scheme.

61. It shall be the duty of a local authority on which obligations are imposed by any such scheme to carry that scheme into effect within such time as may be specified in the scheme or within such further time as may be allowed by the Minister.

Execution of works, &c., by local authority outside its own area.

62. Where any such scheme is being carried into effect by a local authority outside their own area, that authority shall, subject to the approval of the Minister, have power to execute any works which are necessary for the purposes, or are incidental to the carrying out, of the scheme, subject to entering into agreements with the council of the county or district in which the scheme is being carried out as to the terms and conditions on which any such works are to be executed.

Acquisition and appropriation of Land.

Power to acquire land by agreement.

63. Land for the purposes of this Part of this Act may be acquired by a local authority by agreement in like manner as if those purposes were purposes of the Public Health Act, 1875, and sections one hundred and seventy-five to one hundred and seventy-eight of that Act, so far as they relate to the purchase of land by agreement, shall apply accordingly, and shall for the

purposes of this Part of this Act extend to London in like manner as if the Common Council of the City of London, the London County Council and a metropolitan borough council respectively were a local authority in the said sections mentioned.

Power to acquire land compulsorily.

64. A local authority may be authorised to purchase land compulsorily for the purposes of this Part of this Act, by means of an order submitted to the Minister and confirmed by him in accordance with the Third Schedule to this Act:

Provided that nothing in this Act shall authorise the compulsory acquisition for the purposes of this Part of this Act of any land which is the property of any local authority or has been acquired by any corporation or company for the purposes of a railway, dock, canal, water, or other public undertaking, or which at the date of the order forms part of any park, garden, or pleasure ground, or is otherwise required for the amenity or convenience of any house.

Power to appropriate land.

65. A local authority may, with the consent of the Minister, appropriate, for the purposes of this Part of this Act, any houses or land which may be for the time being vested in them, or at their disposal, subject as respects land vested in them for educational purposes to the provisions of section one hundred and fourteen of the Education Act, 1921.

11 & 12 Geo. 5. c. 51.

Power of trustees, &c., to sell land to local authority.

66.—(1) The trustees of any dwelling-houses for the working classes for the time being provided in any district by private subscriptions or otherwise, may, with the consent of a majority of the committee or other persons by whom they were appointed trustees, sell or lease the houses to the local authority of the district, or make over to them the management thereof.

(2) The Commissioners of Woods may under and in accordance with the provisions of the Crown Lands Acts, 1829 to 1906, sell or let to a local authority for the purposes of this Part of this Act any part of the land described on the duplicate plans which have been deposited with the Clerk of Parliaments and the Clerk of the House of Commons, notwithstanding that such land may be part or parcel of a royal park, if the Minister, after holding a local inquiry, is satisfied that the acquisition of the land by the local authority for such purposes as aforesaid is desirable in the national interest.

Management of Houses provided by Local Authority.

Management vested in local authority.

67.—(1) The general management, regulation, and control of the dwelling-houses provided by a local authority under this Part of this Act or any Act repealed by this Act shall be vested in and exercised by the local authority.

(2) The local authority may make such reasonable charges for the tenancy or occupation of the dwelling-houses so provided as they may by regulations determine.

Byelaws for regulation of houses.

68.—(1) The local authority may make byelaws for the management, use, and regulation of dwelling-houses provided by them.

(2) The local authority shall as respects lodging-houses provided by them (that is to say, houses not occupied as separate dwellings) by byelaws, make sufficient provision for the following purposes:—

(*a*) for securing that the lodging houses shall be under the management and control of the officers, servants, or others appointed or employed in that behalf by the local authority;

(*b*) for securing the due separation at night of men and boys above eight years old from women and girls;

(*c*) for preventing damage, disturbance, interruption, and indecent and offensive language and behaviour and nuisances;

(*d*) for determining the duties of the officers, servants and others appointed by the local authority;

and a printed copy or sufficient abstract of the byelaws relating to lodging-houses shall be put up and at all times kept in every room therein.

(3) The provisions of sections one hundred and eighty-two to one hundred and eighty-six of the Public Health Act, 1875, or of section one hundred and fourteen of the Public Health (London) Act, 1891, as the case may be, shall apply to byelaws under this section.

38 & 39 Vict. c. 55.
54 & 55 Vict. c. 76.

(4) Any fine for the breach of any such byelaw shall be recoverable summarily and shall (subject to the provisions of section five of the Criminal Justice Administration Act, 1914), be paid to the credit of the fund or rate out of which the expenses of this Part of this Act are defrayed.

4 & 5 Geo. 5. c. 58.

69. A dwelling-house provided in any district under this Part of this Act or any Act repealed by this Act shall be at all times open to the inspection of the local authority of that district or of any officer from time to time authorised by such authority. Inspection of houses.

Provision of Houses by Public Utility Societies and other Persons.

70.—(1) A local authority within the meaning of this Part of this Act, or a county council, may promote the formation or extension of, or, subject to the provisions of this Act, assist, a public utility society whose objects include the erection, improvement, or management of dwelling-houses for the working classes. Powers of promoting and assisting public utility societies.

(2) Where such a society is desirous of erecting dwelling-houses for the working classes, which in the opinion of the Minister are required, and the local authority of the area in which the houses are proposed to be built are unwilling to acquire land with a view to selling or leasing the same to the society, the county council, on the application of the society, may for this purpose acquire land and exercise all the powers of a local authority under this Part of this Act in regard to the acquisition and disposal of land, and the provisions of this Part of this Act as to the acquisition of land by local authorities shall apply accordingly.

(3) Any such local authority or county council with the consent of, and subject to any regulations or conditions which may be made or imposed by, the Minister, may, for the assistance of such a society—

(*a*) make grants or loans to the society;

(*b*) subscribe for any share or loan capital of the society;

(*c*) guarantee or join in guaranteeing the payment of interest on money borrowed by the society or of any share or loan capital issued by the society,

on such terms and conditions as to rate of interest and repayment or otherwise and on such security as the local authority or council think fit, and notwithstanding the provisions of section four of the Industrial and Provident Societies Act, 1893, where a local authority or county council assist such a society under this subsection, the local authority or council shall not be 56 & 57 Vict. c. 39.

prevented from having or claiming an interest in the shares of the society exceeding two hundred pounds.

Powers to companies, &c., to provide houses for working classes.

71. Any railway company, or dock or harbour company or any other company, society, or association established for trading or manufacturing purposes in the course of whose business or in the discharge of whose duties persons of the working class are employed, may and are hereby (notwithstanding any Act of Parliament, or charter, or any rule of law or equity to the contrary) authorised at any time to erect, either on their own land or on any other land (which they are hereby authorised to purchase and hold for the purpose and to pay for out of any funds at their disposal), houses for the accommodation of all or any of the persons of the working class employed by them.

Power of county councils, &c. to provide houses for their employees.

72.—(1) A county council shall have power to provide dwelling-houses for persons in the employment of or paid by the council or a statutory committee thereof, and for that purpose a county council may be authorised to acquire or appropriate land in like manner as a local authority may be authorised to acquire or appropriate land for the purposes of this Part of this Act.

(2) This section shall apply to an asylums board as it applies to county councils.

Enforcement of Provisions of Part III.

Power of Minister on complaint to enforce exercise of powers.

73.—(1) Where a complaint is made to the Minister—

(*a*) as respects any rural district by the council of the county in which the district is situate, or by the parish council or parish meeting of any parish comprised in the district, or by any justice of the peace acting for the district or by any four or more local government electors in the district; or

(*b*) as respects any county district, not being a rural district, by the council of the county in which the district is situated, or by any justice of the peace acting for the district or by any four or more local government electors in the district; or

(*c*) as respects the area of any other local authority by any justice of the peace acting for the area or by any four or more local government electors in the area;

that the local authority have failed to exercise their powers under this Part of this Act in cases where those powers ought to have been exercised, the Minister may cause a public local inquiry to be held, and if, after holding such an inquiry, the Minister is satisfied that there has been such a failure on the part of the local authority, he may declare the authority to be in default, and may make an order directing that authority within a time limited by the order, to carry out such works and do such other things as may be mentioned in the order for the purpose of remedying the default.

(2) Before deciding that a local authority have failed to exercise their powers under this Part of this Act, the Minister shall take into consideration the necessity for further accommodation for the housing of the working classes in the district, the probability that the required accommodation will not be otherwise provided, and the other circumstances of the case, and whether, having regard to the liability which will be incurred by the rates, it is prudent for the local authority to undertake the provision of such accommodation.

(3) Where an order originally made under this section on the council of a county district is not complied with by that council, the Minister may, if he thinks fit, with the consent of the county council, instead of enforcing that order against the council of the county district, make an order directing the county council to carry out any works or do any other things which are mentioned in the original order for the purpose of remedying the default of the district council.

(4) Where the Minister makes an order under this section directing a county council to carry out any works or do any other thing, the order may, for the purpose of enabling the county council to give effect to the order, apply any of the provisions of this Act or of section sixty-three of the Local Government Act, 1894, with such modifications or adaptations (if any) as appear necessary or expedient.

(5) An order made by the Minister under this section shall be laid before both Houses of Parliament as soon as may be after it is made.

(6) Any order made by the Minister under this section may be enforced by mandamus.

Power to authorise county council to act in place of local authority.

74.—(1) Where the Minister is satisfied that a local authority have failed or are not prepared to fulfil their obligations as to the preparation of schemes under this Part of this Act, or their obligations under any such scheme, or that for any other reason it is desirable that any such obligation should be performed by the county council instead of by the local authority, the Minister, after considering the circumstances of the case and giving the local authority and the county council an opportunity of being heard, may, if he thinks fit, by order, transfer to the council of the county in which the district of the local authority is comprised the obligation to prepare and carry out a scheme, or to carry out in whole or in part the provisions of a scheme prepared by the local authority.

(2) Where the Minister makes an order under this section, the order may, for the purpose of enabling the county council to give effect to the order, apply any of the provisions of this Act or section sixty-three of the Local Government Act, 1894, with such modifications and adaptations as appear necessary or expedient:

Provided that the local authority shall be entitled to appeal to the Minister, if, in their opinion, the amount of the expenses which the county council require them to defray or propose to charge against their district is excessive or unreasonable, or against any refusal by a county council to make an order under the said section sixty-three vesting in the local authority all or any of the powers, duties, property, debts, and liabilities of the county council in relation to the powers transferred to them, and upon any such appeal the Minister may make such order as he may deem just, and an order so made shall be binding on the county council and the local authority.

(3) This section shall apply in cases where a joint scheme has been, or in the opinion of the Minister ought to be, prepared with the substitution of references to the local authorities concerned and their districts for references to the local authority and the district of the local authority.

Power of Minister to act in place of the local authority.

75.—(1) Where the Minister is satisfied that a local authority, or, in cases where any powers or duties of a local authority have been transferred to a county council such council, or, in cases where a joint scheme has been,

or in the opinion of the Minister should be prepared, the local authorities concerned have failed to fulfil their obligations as to the preparation of schemes under this Part of this Act or their obligations under any such schemes, the Minister may after considering the circumstances of the case, and after giving the local authority, authorities, or county council an opportunity of being heard, himself prepare and carry out a scheme or take such steps as may be necessary to carry out any scheme prepared by the local authority or council, or by two or more local authorities jointly, and shall for that purpose have all the powers of a local authority under this Part of this Act, and this Act shall, with the necessary modifications and adaptations, apply accordingly.

(2) Any expenses incurred by the Minister in the exercise of such powers as aforesaid shall in the first instance be paid out of moneys provided by Parliament, but the amount certified by the Minister to have been so expended, and to be properly payable by a local authority, shall on demand be paid to the Minister by the local authority and shall be recoverable as a debt due to the Crown.

Power of county council to act in default of rural district council.

76. Where a complaint is made to the council of a county by the parish council or parish meeting of any parish comprised in any rural district in the county, or by any justice of the peace acting for that district or by any four or more local government electors in that district that the rural district council have failed to exercise their powers under this Part of this Act in cases where those powers ought to have been exercised, the county council may cause a public local inquiry to be held, and if, after holding such an inquiry, the county council are satisfied that the rural district council has so failed, the county council may resolve that the powers of the district council for the purpose of this Part of this Act be transferred to the county council with respect either to the whole district or to any parish in the district, and those powers shall be transferred accordingly, and, subject to the provisions of this Act, section sixty-three of the Local Government Act, 1894, shall apply as if the powers had been transferred under that Act.

Power of county council to

77.—(1) Where the council of a county are of opinion that for any reason it is expedient that the

exercise powers of rural district council.

council should exercise, as respects any rural district in the county, any of the powers of a local authority under this Part of this Act, the council, after giving notice to the council of the district of their intention to do so, may apply to the Minister for an order conferring such powers on them.

(2) Upon such an application being made, the Minister may make an order conferring on the county council, as respects the rural district, all or any of the powers of a local authority under this Part of this Act, and thereupon the provisions of this Act relating to those powers (including those enabling the Public Works Loan Commissioners to lend, and fixing the terms for which money may be lent and borrowed) shall apply as if the council were a local authority under this Part of this Act.

(3) Where, under any such order, the county council have executed any works in a rural district they may transfer the works to the council of that district on such terms and subject to such conditions as may be agreed between them.

Supplemental.

Sale, &c., of land for housing purposes by tenants for life and corporations.

78.—(1) A tenant for life shall have such power of selling, granting, exchanging and leasing land for the purposes of the erection thereon of dwelling-houses for the working classes as are conferred upon him by the Settled Land Acts, 1882 to 1890, as amended by any subsequent enactment, and capital money arising under those Acts may be expended on the provision of dwelling-houses available for the working classes in the manner and subject to the conditions provided by those Acts as so amended.

(2) Any body corporate holding land may sell, exchange, or lease the land for the purpose of the erection of dwelling-houses for the working classes at such price, or for such consideration, or for such rent, as having regard to the said purpose and to all the circumstances of the case is the best that can reasonably be obtained notwithstanding that a higher price, consideration, or rent might have been obtained if the land were sold, exchanged, or leased for another purpose.

Power to water and gas companies to supply water and gas to houses.

79. Any commissioners of waterworks, trustees of waterworks, water companies, gas companies, and other corporations, bodies and persons having the management of any waterworks, reservoirs, wells, springs, or streams of water, and gasworks respectively, may, in their discretion, grant and furnish supplies of water or gas for houses provided under this Part of this Act, either without charge or on such other favourable terms as they think fit.

Local authority for the purposes of Part III.

80.—(1) The local authority for the purposes of this Part of this Act shall—

(*a*) as respects the City of London, be the Common Council;

(*b*) as respects any other part of the administrative county of London, be the London County Council or the metropolitan borough council as hereinafter provided;

(*c*) elsewhere be the council of the borough or urban or rural district.

(2) For determining whether in any case the London County Council or the metropolitan borough council is to be the local authority for the purposes of this Part of this Act the following rules shall have effect—

(*a*) the London County Council shall be the local authority for the county, to the exclusion of any other authority, so far as regards the provision of any houses outside the administrative county of London;

(*b*) a metropolitan borough council shall be the local authority for the metropolitan borough, to the exclusion of any other authority, so far as regards the provision of houses within the metropolitan borough:

Provided that—

(i) nothing in this section shall prejudice or affect the rights, powers and privileges of the London County Council in regard to any lands, buildings, or works acquired, provided or carried out by the county council before the thirty-first day of July, nineteen hundred and nineteen; and

(ii) where the London County Council are satisfied that there is situate within the area of a metropolitan borough land suitable for development for housing, the county council may submit a scheme for the approval of the Minister for the development of such land to meet the needs of districts situate outside the area of such borough, and the county council may carry into effect any scheme which is so approved, and such approval shall have the like effect as if it had been given under section sixty of this Act;

(c) The Minister may by order direct that any of the powers or duties of a metropolitan borough council under this Part of this Act shall be transferred to the London County Council, or that any of the powers or duties of the London County Council under this Part of this Act shall be transferred to a metropolitan borough council.

(3) The London County Council and the Common Council of the City of London may at any time enter into an agreement for carrying out any scheme for the purpose of this Part of this Act, and for the apportionment of the expenses incurred in carrying out such scheme.

PART IV.

FINANCIAL PROVISIONS.

Expenses of Local Authorities.

Expenses of local authorities under Parts I., II. and III.

81.—(1) Subject to the provisions of this Act, all expenses incurred by a local authority in the execution of Parts I., II. and III. of this Act shall be defrayed, in the case of the London County Council as expenses for special county purposes, in the case of the Common Council of the City of London or of a metropolitan borough council as part of the general expenses of the council, and in any other case as part of the expenses of the council in the execution of the Public Health Acts.

(2) Any expenses incurred by a rural district council under Parts I. or II. of this Act shall be charged as special expenses on the contributory place in respect of which they are incurred.

The expenses incurred by a rural district council under Part III. of this Act shall be defrayed as general expenses, but the Minister may, on the application of the council, declare that any expenses incurred by the council under that Part are to be levied as special expenses charged on specified contributory places, or as general expenses charged on specified contributory places, in the district, in such proportions as the council may determine, to the exclusion of other parts of the district:

Provided that the council shall give notice to the overseers of any contributory place proposed to be charged of any apportionment made by them under this section, and the overseers, if aggrieved by the apportionment, may appeal to the Minister by giving notice of appeal to the Minister within twenty-one days after notice has been so given of the apportionment.

Special provisions as to London.

82.—(1) The council of a metropolitan borough may, if they think fit, pay or contribute towards the payment of any expenses incurred by the London County Council in carrying into effect an improvement or reconstruction scheme made by the county council under Part II. of this Act; and where the London County Council consider that any expenses incurred by them in carrying into effect such a scheme, or a contribution in respect of such expenses, ought to be paid or made by a metropolitan borough council, and the metropolitan borough council do not agree to pay such expenses or make such contribution, the London County Council may apply to the Minister, and the Minister, if satisfied that, having regard to the size of the area, to the number, position, structure, sanitary condition, and neighbourhood of the buildings to be dealt with, the metropolitan borough council ought to pay, or make a contribution in respect of, the said expenses, the Minister may order such payment or contribution to be made, and the amount thereof shall be a simple contract debt from the metropolitan borough council to the county council.

(2) The London County Council may, if they think fit, pay or contribute to the payment of the expenses incurred by a metropolitan borough council carrying into effect an improvement or reconstruction scheme made by the borough council under Part II. of this Act, and if a metropolitan borough council consider that any expenses incurred by them in carrying into effect any such

scheme, or a contribution in respect of those expenses, ought to be paid or made by the county council, and the county council do not agree to pay such expenses or make such contribution, the metropolitan borough council may apply to the Minister, and if the Minister is satisfied that, having regard to the size of the area, to the number, position, structure, sanitary condition, and neighbourhood of the buildings to be dealt with, the county council ought to pay or make a contribution in respect of the said expenses, he may order such payment or contribution to be made, and the amount thereof shall be a simple contract debt from the county council to the metropolitan borough council.

(3) Any payment or contribution agreed or ordered to be made under the last two foregoing subsections of this section may be made either by means of a payment of a lump sum or by means of an annual payment of such amount and for such number of years as may be agreed upon or ordered.

Expenses of county councils.

83. All expenses under this Act of a county council (other than those of the London County Council when acting in their capacity of local authority under this Act) shall be defrayed as expenses for general county purposes, or as expenses for special county purposes as the case may require:

Provided that any expenses incurred by a county council, including the London County Council, under sections seventy and ninety-two of this Act shall be defrayed as expenses for general county purposes.

Borrowing by Local Authorities.

Power of local authorities to borrow for purposes of Act.

84.—(1) Subject to the provisions of this Act, a local authority may borrow—

(*a*) for the purposes of Part I. of this Act, so far as it relates to the execution of repairs and works by local authorities, and to compensation payable for or in respect of obstructive buildings;

(*b*) for the purposes of Part II. and Part III. of this Act;

(*c*) for the purposes of this Part of this Act, so far as it authorises loans and advances by local authorities or the giving of any guarantee by the local authority.

(2) Money so borrowed by a local authority may be borrowed—

(*a*) in the case of the London County Council in manner provided by the London County Council (Finance Consolidation) Act, 1912; 2 & 3 Geo. 5. c. cv.

(*b*) in the case of the Common Council of the City of London, under the City of London Sewers Acts, 1848 to 1897;

(*c*) in the case of a metropolitan borough council, in like manner and subject to the like conditions as for the purposes of the Metropolis Management Acts, 1855 to 1893;

(*d*) in any other case, in like manner and subject to the like conditions as for the purposes of the Public Health Acts:

Provided that—

(i) the maximum period which may be sanctioned as the period for which money may be borrowed by a local authority for the purposes of this Act shall, notwithstanding the provisions of any Act of Parliament, be eighty years; and

(ii) section one hundred and ninety of the Metropolis Management Act, 1855, shall have effect as if for the reference to two pounds per cent. there were substituted a reference to such sum as will be sufficient with compound interest to repay the money borrowed within the period sanctioned in respect of the loan. 18 & 19 Vict. c. 120.

85.—(1) A county council (other than the London County Council) may borrow for the purposes of this Act (other than the purposes of paragraph (*c*) of subsection (1) of section ninety-two of this Act) under and in accordance with section sixty-nine of the Local Government Act, 1888: Borrowing by county councils, &c. 51 & 52 Vict. c. 41.

Provided that—

(*a*) where the money is borrowed for the purposes of the provision of dwelling-houses for persons in the employment of, or paid by, the council, or a statutory committee thereof, or of acquiring land for such houses, or for the purposes of section ninety-two of this Act, the maximum period for repayment shall be eighty years, and as respects money so borrowed eighty years

shall be substituted for thirty years in subsection (5) of the said section sixty-nine; and

(*b*) where the money is borrowed for the purpose of making grants or loans to, or subscribing to the capital of, a public utility society under Part III. of this Act, the maximum period for repayment shall be fifty years, and as respects money so borrowed fifty years shall be substituted for thirty years in the said subsection (5).

(2) This section so far as it relates to the provision of dwelling-houses for employees shall apply to an asylums board in like manner as it applies to a county council with the substitution of a reference to the provisions fixing the period within which such board is required to repay loans for the reference to subsection (5) of section sixty-nine of the Local Government Act, 1888.

Power to borrow in connection with schemes carried out by local authority outside its own area.

86.—(1) Where a housing scheme approved under Part III. of this Act is being carried into effect by a local authority outside their own area, that authority shall, subject to the approval of the Minister, have power to borrow money for the purpose of defraying any expenses (including, if the Treasury so approve, interest payable in respect of any period before the completion of the scheme or a period of five years from the date of the borrowing, whichever period is the shorter, on money borrowed under this section) incurred by the local authority in connection with any works necessary for the purposes of the scheme or incidental to the carrying out thereof which under this Act they are authorised to execute:

Provided that any order of the Minister, in so far as it relates to the sanction of a loan under the foregoing provisions for the purpose of the payment of interest payable in respect of money borrowed, shall be provisional only and shall be of no effect until confirmed by Parliament.

(2) The council of any county or district in which a scheme is being carried out as aforesaid shall have power, with the approval of the Minister, to borrow money for the purposes of any agreement entered into by the council with the local authority under Part III. of this Act.

Power to issue local bonds.

87.—(1) Without prejudice to any other powers of borrowing, a local authority (other than a metropolitan borough council) or a county council may, with the consent of the Minister, borrow any sums which they have power to borrow for the purposes of this Act, by the issue of bonds (in this Act referred to as "local bonds") in accordance with the provisions of this Act.

(2) The provisions set out in the Fourth Schedule to this Act shall have effect with respect to local bonds.

(3) Where on an application made by two or more local authorities or county councils the Minister is satisfied that it is expedient that those authorities or councils should have power to make a joint issue of local bonds, the Minister may by order make such provision as appears to him necessary for the purpose, and any such order shall provide for the securing of the bonds issued upon the joint rates, property and revenues of the authorities or councils.

The provisions of any such order shall have effect as if they were contained in a Provisional Order made under section two hundred and seventy-nine of the Public Health Act, 1875, and confirmed by Parliament.

(4) Any local authority or county council by whom any local bonds have been issued may, without the consent of the Minister, borrow for the purpose of redeeming those bonds.

Housing loans not to be reckoned as part of debt of authority for the purposes of any statutory limitation on borrowing.

88. Money borrowed for the purposes of this Act by a local authority or a county council shall not be reckoned as part of the total debt of the authority or council for the purposes of any limitation on borrowing imposed by any Act of Parliament.

Loans by Public Works Loan Commissioners.

Loans by Public Works Loan Commissioners to local authorities.

89.—(1) The Public Works Loan Commissioners may lend to any local authority or county council any money which that local authority or county council have power to borrow for the purposes of making advances or fulfilling guarantees under section ninety-two of this Act.

(2) Where a loan is made by the Public Works Loan Commissioners to a local authority for the purposes of this Act or to a county council or asylums board for the purpose of the provision of dwelling-houses for

employees or for the purposes of section ninety-two of this Act—

(*a*) the loan shall be made at the minimum rate allowed for the time being for loans out of the Local Loans Fund; and

(*b*) if the Minister makes a recommendation to that effect, the period for which the loan is made may exceed the period allowed under any enactment limiting the period for which loans may be made by the Commissioners, but the period shall not exceed the period recommended by the Minister nor in any case eighty years; and

(*c*) as between loans for different periods, the longer duration of the loan shall not be taken as a reason for fixing a higher rate of interest.

Loans to public utility societies, &c.

90.—(1) The Public Works Loan Commissioners may, subject as hereinafter provided, advance on loan to any such company, society, association, or person as is hereafter mentioned moneys for the purpose of constructing or improving or facilitating or encouraging the construction or improvement of dwelling-houses for the working classes, and, in the case of a public utility society, for the purchase of houses which may be made suitable as dwelling-houses for the working classes and for the purchase and development of land, and any such company, society, association, or person may borrow from the Public Works Loan Commissioners such money as may be required for the purposes aforesaid.

(2) The companies, societies, associations, and persons to whom money may be so lent and who may so borrow are—

(*a*) any railway company or dock or harbour company, or any public utility society or any other company, society, or association established for the purpose of constructing or improving or of facilitating or encouraging the construction or improvement of dwelling-houses for the working classes, or for trading or manufacturing purposes, in the course of whose business, or in the discharge of whose duties, persons of the working classes are employed; and

(*b*) any person entitled to any land for an estate in fee simple, or for any term of years absolute, whereof not less than fifty years shall for the time being remain unexpired.

(3) Any such advance may be made whether the company, society, association, or person receiving the sum has or has not power to borrow on mortgage or otherwise independently of this Act; but nothing in this Act shall affect any regulation, statutory or otherwise, whereby any company may be restricted from borrowing until a definite portion of capital is subscribed for, taken, or paid up.

(4) The following conditions shall apply in the case of any such advance:—

(*a*) The period for the repayment of the sums advanced shall not exceed forty years:

(*b*) No money shall be advanced on mortgage of any land or houses solely, unless the estate therein proposed to be mortgaged is either an estate in fee simple or an estate for a term of years absolute, whereof not less than fifty years are unexpired at the date of the advance:

(*c*) The money advanced on the security of a mortgage of any land or houses solely shall not exceed such proportion as is hereinafter authorised, of the value, to be ascertained to the satisfaction of the Public Works Loan Commissioners, of the estate or interest in the land or houses proposed to be mortgaged; but advances may be made by instalments from time to time as the building of the houses on the land mortgaged progresses so that the total advances do not any time exceed the amount aforesaid; and a mortgage may be accordingly made to secure such advances so to be made from time to time:

Provided that, where a loan is made under this section to a public utility society for the purpose of carrying out a scheme for the provision of houses for the working classes approved by the Minister,—

(i) The maximum period for the repayment of the loan shall be fifty instead of forty years:

(ii) Money may be lent on the mortgage of an estate for a term of years absolute whereof a period not less than ten years in excess of the period fixed for the repayment of the sums advanced remains unexpired at the date of the loan.

(5) The proportion of such value as aforesaid authorised—

(*a*) in the case of a company established for the purpose of constructing or improving or of facilitating or encouraging the construction or improvement of dwelling-houses for the working classes which does not trade for profit or whose constitution forbids the issue of any share or loan capital with interest or dividend exceeding the rate for the time being prescribed by the Treasury, shall be three-quarters;

(*b*) in the case of a public utility society, shall be two-thirds;

(*c*) in any other case shall be one moiety:

Provided that, where the advance to any such company exceeds one moiety of such value as aforesaid, or if the company is a public utility society exceeds two-thirds thereof, the Public Works Loan Commissioners shall require, in addition to a mortgage of any land or dwelling-houses, a further security of such value as they may think fit.

(6) Any loan advanced by the Public Works Loan Commissioners in pursuance of this section, or to borrowers other than local authorities for the provision of labourers' dwellings under the Public Works Loans Act, 1875, or any Act amending that Act, shall bear interest at such rate not less than three pounds two shillings and sixpence per centum per annum as the Treasury may from time to time authorise as being in their opinion sufficient to enable such loan to be made without loss to the Exchequer.

(7) For the purpose of constructing or improving or facilitating or encouraging the construction or improvement of dwelling-houses for the working classes, every such company, society, or association as aforesaid is hereby authorised to purchase, take, and hold land, and if not already a body corporate shall, for the purpose of holding land acquired under this section or the corresponding provision of any Act repealed by this Act and of suing and being sued in respect thereof, be nevertheless deemed a body corporate with perpetual succession.

(8) A public utility society shall have power, notwithstanding anything in its rules or constitution

prohibiting the payment of any interest on loan capital at a rate exceeding six per centum per annum, to raise money on loan at a rate of interest not exceeding the rate of interest for the time being prescribed by the Treasury for the purposes of this Act with respect to public utility societies.

Loans by Local Authorities for provision of Houses.

Loans by local authorities for the improvement of housing accommodation.

91.—(1) Where the owner of a house or building applies to the local authority for the purposes of Part III. of this Act of the district in which the house or building is situated for assistance for the purpose of carrying out works for the reconstruction, enlargement, or improvement thereof, and the local authority are of opinion that after the works are carried out the house or building would be in all respects fit for habitation as a dwelling-house or as houses for the working classes, and that the circumstances of the district in regard to housing accommodation are such as to make it desirable that the works should be carried out, the local authority may lend to the owner the whole or any part of such sum as may be necessary to defray the cost of the works, and any costs, charges, or expenses incidental thereto:

Provided that the loan shall not exceed one half of the estimated value of the property mortgaged, unless some additional or collateral security is given sufficient to secure the excess.

(2) Before the works are commenced, full particulars of the works and, where required by the local authority, plans and specifications thereof shall be submitted to the local authority for their approval, and before any loan is made the authority shall satisfy themselves that the works in respect of which the loan is to be made have been carried out in a satisfactory and efficient manner.

(3) For the purpose of this section "owner" means any person whose interest, or any number of persons whose combined interests, constitute either an estate of fee simple in possession, or, in the case of copyhold land, a similar estate, or a leasehold interest in possession for a term of years absolute whereof a period of not less than ten years in excess of the period fixed for the repayment of the loan remains unexpired at the date of the loan.

Power of local authorities to make advances, &c., for the purpose of increasing housing accommodation.

92.—(1) A local authority for the purposes of Part III of this Act, or a county council, may, subject to such conditions as may be approved by the Minister—

(*a*) advance money, subject to the provisions hereinafter contained, to persons or bodies of persons—

(i) constructing or altering or undertaking to construct or alter houses ; or

(ii) acquiring or undertaking to acquire houses the construction of which was begun after the twenty-fifth day of April, nineteen hundred and twenty-three;

whether such houses are within or without the area of the authority or council;

(*b*) undertake to guarantee the repayment to a society incorporated under the Building Societies Acts, 1874 to 1894, or the industrial and Provident Societies Acts, 1893 to 1913, of any advances, with interest thereon, made by the society to any of its members for the purpose of enabling them to build houses or acquire houses the construction of which was commenced after the twenty-fifth day of April, nineteen hundred and twenty-three, whether such houses are within or without the area of the authority or council;

(*c*) in the case of the conversion of a house into two or more separate and self-contained flats, undertake that, if the aggregate rateable value of the flats exceeds the rateable value of the house before conversion, they will, during such period not exceeding twenty years as is specified in the undertaking, refund to the person by whom the rates on any such flat are payable the whole or any part of the difference between the rates paid by him and the rates which would be payable were the rateable value of the flat reduced by such an amount that the reduced value would bear to the rateable value the same proportion as the rateable value of the house before conversion bears to the aggregate rateable value of the flats.

(2) The local authority or county council before granting any such assistance shall satisfy themselves that the houses or flats in respect of which assistance is to be given, will, when the building, alteration or conversion has been completed, be in all respects fit for human habitation, and in particular that the superficial area of any such house or flat will not be less than—

(*a*) in the case of a two-storied house six hundred and twenty superficial feet; or

(*b*) in the case of a structurally separate and self-contained flat or a one-storied house five hundred and fifty superficial feet;

those measurements being calculated in accordance with the rules made by the Minister:

Provided that, if the authority or council in any particular case satisfy the Minister that, having regard to special circumstances existing in their area, there is a need for houses of smaller dimensions, the minimum measurement may be reduced, as respects such limited number of houses for that area and subject to such conditions as the Minister may determine, in the case of a two-storied house to five hundred and seventy, and in the case of a flat or a one-storied house to five hundred, superficial feet.

(3) Any such advance as aforesaid shall be subject to the following conditions:—

(*a*) The advance with interest thereon shall be secured by mortgage, and the advance shall not exceed ninety per cent of the value of the interest of the mortgagor in the property, and the mortgage deed may provide for repayment being made either by instalments of principal or by an annuity of principal and interest combined, so, however, that in the event of any of the conditions subject to which the advance is made not being complied with, the balance for the time being unpaid shall become repayable on demand by the local authority or council; and

(*b*) the advance may be made by instalments from time to time as the building or alteration of the house progresses, so, however, that the total

of the advance does not at any time before the completion of the house exceed fifty per cent of the value of the work done up to that time on the construction or on works incidental to the construction of the house, including the value of the interest of the mortgagor in the site thereof; and

(*c*) the advance shall not be made except after a valuation duly made on behalf of the authority or council; and

(*d*) where the interest upon which the advance is to be made is a leasehold interest, no advance shall be made unless that interest is a term of years absolute whereof a period of not less than ten years in excess of the period fixed for the repayment of the advance remains unexpired at the date of the advance.

(4) An advance or guarantee under this section shall not be made or given if the estimated value of the fee simple in possession free from incumbrances of the house in respect of which the advance or guarantee is to be made or given exceeds fifteen hundred pounds, but such an advance or guarantee may be made or given in addition to assistance given by the local authority under any other Act in respect of the same house.

In the case of an advance for the construction of one or more structurally separate and self-contained flats, the estimated value for the purposes of the foregoing limitation shall as respects any flat be the estimated value of the flat.

(5) In the application of this section to the county of London, the London County Council shall be the local authority to the exclusion of any other local authority.

Loans by local authority executing scheme outside its own area.

93. Where a housing scheme approved under Part III. of this Act is being carried into effect by a local authority outside their own area, that authority shall, subject to the approval of the Minister, have power to advance to the council of any county or district in which the scheme is being carried out such sums as may by reason of any agreement made with that council under

that Part be required by that council in connection with the construction by the council of any works which are necessary for the purposes, or are incidental to the carrying out of the scheme.

Power of county councils to lend to local authorities.

94. A county council may lend to any local authority within their area any money which that authority have power to borrow for the purposes of this Act, subject to any conditions (including conditions with respect to the borrowing by a local authority from the county council of the money so raised), which the Minister may by general or special order impose.

Supplemental.

Accounts and audit.

95.—(1) Separate accounts shall be kept by a local authority and their officers of their receipts and expenditure under Part I., Part II., and Part III. of this Act respectively.

(2) Such accounts shall be audited in the like manner and with the like power to the officer auditing the same, and with the like incidents and consequences, as the accounts of the local authority are for the time being required to be audited by law.

(3) Where land acquired by a council under Part III. of this Act is appropriated for the purpose of re-housing persons displaced by the council under the powers of any other Part of this Act or of any other enactment, the receipts and expenditure in respect of that land (including all costs in respect of the acquisition and laying out of the land) and of any buildings erected thereon, may be treated as receipts and expenditure under that Part or enactment, but shall be accounted for under a separate head.

Application of purchase money.

96. The proceeds of the sale of any land acquired by a local authority for any of the purposes of this Act shall be applied for any purpose, including repayment of borrowed money, for which capital money may be applied, and which is approved by the Minister.

Subscriptions by local authorities to local savings committees.

97. A local authority for the purposes of Part III. of this Act may, subject to the approval of the Minister, contribute to the expenses of any local savings committee established for their area or any part of their area.

PART V.

GENERAL.

Re-housing by Undertakers.

Re-housing obligations where land is acquired under statutory provisions.

98. Where under the powers given by any local Act or Provisional Order or Order having the effect of an Act, any land is acquired, whether compulsorily or by agreement, by any authority, company or person, or where any land is so acquired compulsorily under any general Act, other than this Act or any Act repealed by this Act, the provisions set out in the Fifth Schedule to this Act shall apply with respect to the provision of housing accommodation for persons of the working classes.

Provisions as to Building Byelaws, &c.

Relaxation of byelaws.

99.—(1) Where in pursuance of a housing scheme to which this section applies new buildings are constructed, or public streets and roads are laid out and constructed, in accordance with plans and specifications approved by the Minister, the provisions of any building byelaws shall not apply to the new buildings and new streets constructed and laid out in pursuance of the scheme so far as those provisions are inconsistent with the plans and specifications approved by the Minister, and, notwithstanding the provisions of any other Act, any public street or road laid out and constructed in accordance with such plans and specifications may be taken over and thereafter maintained by the local authority:

Provided that, as regards the administrative county of London, the Minister shall not approve any plans and specifications inconsistent with the provisions of any building byelaws in force in the county except after consultation with the London County Council on the general question of the relaxation of such provisions in connexion with housing schemes.

(2) Where the Minister has approved plans and specifications which in certain respects are inconsistent with the provisions of any building byelaws in force in the district in which the works are to be executed, any proposals for the erection therein of houses and the laying out and construction of new streets which do not form part of a housing scheme to which this section applies may, notwithstanding those provisions, be carried

out if the local authority are, or, on appeal the Minister is, satisfied that they will involve departures from such provisions only to the like extent as in the case of the plans and specifications so approved, and that, where such plans and specifications have been approved subject to any conditions, the like conditions will be complied with in the case of proposals to which this subsection applies:

Provided that, in the application of this subsection to the administrative county of London, the expression "local authority" means the London County Council with respect to the matters within their jurisdiction and the Common Council of the City of London or the council of a metropolitan borough (as the case may be) with respect to other matters.

(3) The housing schemes to which this section applies are schemes made by a local authority or county council under this Act, or by a public utility society or housing trust, and approved by the Minister.

Provisions as to bye-laws relating to new streets.

100.—(1) For the purpose of facilitating the erection of dwelling-houses, the Minister may prescribe a code of building byelaws relating to the level, width, and construction of new streets, but no such code shall have effect unless and until adopted by resolution of a local authority; and where such code or any part thereof is so adopted it shall not be necessary for the local authority to comply with the requirements of section one hundred and eighty-four of the Public Health Act, 1875, or, if the byelaws are made under a local Act, the corresponding provisions of that Act, and the code or such part thereof shall have full force and effect as part of the byelaws of the local authority in substitution for such of the existing byelaws of the authority as may be specified in the resolution.

38 & 39 Vict. c. 55.

(2) Where a local authority have approved any plans and sections for a new street, subject to any conditions imposed or authorised by any byelaws in force in the area of that authority, those conditions may be enforced at any time by the authority against the owner for the time being of the land to which the conditions relate.

(3) Where, as respects the area of any local authority, matters relating to the level, width and construction of

new streets are regulated by a local Act and not by byelaws, and the local authority pass a resolution adopting the said code or any part thereof, the code or such part as aforesaid shall have full force and effect as if it formed part of the local Act in substitution for such provisions of the local Act as may be specified in the resolution.

(4) Before a resolution is passed under this section, notice of the proposed resolution shall be published in one or more newspapers in circulation in the district, and when such a resolution has been passed the local authority shall, within seven days thereafter, send a copy of the resolution to the Minister.

(5) For the purpose of facilitating the erection of dwelling-houses within the administrative county of London, the London County Council may, with the consent of the Minister, suspend, alter, or relax the provisions of any enactment or byelaw relating to the formation or laying out of new streets, or the construction of sewers or of buildings intended for human habitation; but save as provided in this subsection this section shall not apply to the administrative county of London.

Power to Minister to revoke unreasonable byelaws.

101.—(1) If the Minister is satisfied, by local inquiry or otherwise, that the erection of any buildings within any borough or urban or rural district is or is likely to be unreasonably impeded in consequence of any byelaws with respect to new streets or buildings in force therein, the Minister may require the local authority to revoke such byelaws or to make such new byelaws as he may consider necessary for the removal of the impediment.

(2) If the local authority do not within three months after such requisition comply therewith, the Minister may himself revoke such byelaws, and make such new byelaws as he may consider necessary for the removal of the impediment, and such new byelaws shall have effect as if they had been duly made by the local authority and confirmed by the Minister.

Power to authorise conversion of house

102. Where it is proved to the satisfaction of the county court on an application by the local authority or any person interested in a house that, owing to changes in the character of the neighbourhood in which the

house is situate, the house cannot readily be let as a single tenement but could readily be let for occupation if converted into two or more tenements, and that, by reason of the provisions of the lease or of any restrictive covenant affecting the house or otherwise, such conversion is prohibited or restricted, the court, after giving any person interested an opportunity of being heard, may vary the terms of the lease or other instrument imposing the prohibition or restriction so as to enable the house to be so converted subject to such conditions and upon such terms as the court may think just.

into several tenements.

Johnston v Manchester 1921 1 K.B. 239
Alliance & C. v Burton 129 L.T. 76

Restrictions on Acquisition of certain Lands.

Provisions as to commons and open spaces.

103.—(1) Where any scheme or order under this Act authorises the acquisition or appropriation to any other purpose of any land forming part of any common, open space, or allotment, the scheme or order, so far as it relates to the acquisition or appropriation of such land, shall be provisional only, and shall not have effect unless and until it is confirmed by Parliament, except where the scheme or order provides for giving in exchange for such land other land, not being less in area, certified by the Minister after consultation with the Minister of Agriculture and Fisheries to be equally advantageous to the persons, if any, entitled to commonable or other rights and to the public.

(2) Before giving any such certificate, the Minister shall give public notice of the proposed exchange, and shall afford opportunities to all persons interested to make representations and objections in relation thereto, and shall, if necessary, hold a local inquiry on the subject.

(3) Where any such scheme or order authorises such an exchange, the scheme or order shall provide for vesting the land given in exchange in the persons in whom the common or open space was vested, subject to the same rights, trusts, and incidents as attached to the common or open space, and for discharging the part of the common, open space, or allotment acquired or appropriated from all rights, trusts, and incidents to which it was previously subject.

(4) For the purposes of this Act the expression "common" includes any land subject to be enclosed under the Inclosure Acts, 1845 to 1882, and any town

or village green; the expression "open space" means any land laid out as a public garden or used for the purposes of public recreation, and any disused burial ground; and the expression "allotment" means any allotment set out as a fuel allotment or a field garden allotment under an Inclosure Act.

Provisions as to land in neighbourhood of royal palaces or parks.

104.—(1) Where any land proposed to be included in any scheme or order to be made under this Act, or any land proposed to be acquired under this Act, is situate within the prescribed distance from any of the royal palaces or parks, the local authority shall, before preparing the scheme or order or acquiring the land, communicate with the Commissioners of Works, and the Minister shall, before confirming the scheme or order or authorising the acquisition of the land or the raising of any loan for the purpose, take into consideration any recommendations they may have received from the Commissioners of Works with reference to the proposal.

(2) For the purposes of this section "prescribed" means prescribed by regulations made by the Minister after consultation with the Commissioners of Works.

Saving of sites of ancient monuments, &c.

105. Nothing in this Act shall authorise the acquisition for the purposes of this Act of any land which is the site of an ancient monument or other object of archaeological interest.

Special Powers and Duties of Local Authorities.

Power of entry on land acquired.

106.—(1) Where a local authority are by an order confirming a scheme under Part II. of this Act, or by an order made and confirmed under Part III. of this Act, authorised to purchase land compulsorily for the purposes of the scheme or of Part III. of this Act, then, at any time after notice to treat has been served, the local authority may, after giving to the owner and occupier of the land such notice as is hereinafter mentioned, enter on and take possession of the land or such part thereof as is specified in the notice without previous consent or compliance with sections eighty-four to ninety of the Lands Clauses (Consolidation) Act, 1845, but subject to the payment of the like compensation for the land of which possession is taken, and interest on the compensation awarded, as would have been payable if those provisions had been complied with.

8 & 9 Vict. c. 18.

(2) Where a local authority have agreed to purchase land for the purposes of a scheme under Part II. of this Act or for the purposes of Part III. of this Act, or have determined to appropriate land for either of those purposes, subject to the interest of the person in possession thereof, and that interest is not greater than that of a tenant for a year or from year to year, then, at any time after such agreement has been made, or such appropriation has been approved by the Minister, the local authority may, after giving to the person so in possession such notice as is hereinafter mentioned, enter on and take possession of the land or such part thereof as is specified in the notice without previous consent, but subject to the payment to the person so in possession of the like compensation, with such interest thereon as aforesaid, as if the local authority had been authorised to purchase the land compulsorily and such person had in pursuance of such power been required to quit possession before the expiration of his term or interest in the land, but without the necessity of compliance with sections eighty-four to ninety of the Lands Clauses (Consolidation) Act, 1845.

(3) The length of notice required to be given under the foregoing provisions of this section shall—

(*a*) in the case of land purchased for the purposes of a scheme under Part II. of this Act, be not less than twenty-eight days; and

(*b*) in the case of land purchased for the purposes of Part III. of this Act, be not less than fourteen days.

Powers in connection with provision of houses.

107.—(1) Any power of the local authority under this Act, or under any scheme made in pursuance of this Act, to provide housing accommodation, shall include a power to provide and maintain with the consent of the Minister and, if desired, jointly with any other person, in connection with any such housing accommodation, any building adapted for use as a shop, any recreation grounds, or other buildings or land which in the opinion of the Minister will serve a beneficial purpose in connection with the requirements of the persons for whom the housing accommodation is provided.

(2) The Minister may, in giving his consent to the provision of any land or building under this section, by order apply, with any necessary modifications, to

such land or building any statutory provisions which would have been applicable thereto if the land or building had been provided under any enactment giving any local authority powers for the purpose.

Power to acquire water rights.

108.—(1) A local authority or a county council may, notwithstanding anything in section three hundred and twenty-seven or section three hundred and thirty-two of the Public Health Act, 1875, but subject to the provisions of section fifty-two of that Act, be authorised to abstract water from any river, stream or lake, or the feeders thereof, whether within or without the district of the local authority or the county, for the purpose of affording a water supply for houses provided or to be provided under a scheme made under this Act or any enactment repealed by this Act, and to do all such acts as may be necessary for affording a water supply to such houses, subject to a prior obligation of affording a sufficient supply of water to any houses or agricultural holdings or other premises that may be deprived thereof by reason of such abstraction, in like manner and subject to the like restrictions as they may be authorised to acquire land for the purposes of the scheme:

Provided that no local authority or county council shall be authorised under this section to abstract any water which any local authority, corporation, company, or person are empowered by Act of Parliament to impound, take, or use for the purpose of supply within any area, or any water the abstraction of which would, in the opinion of the Minister, injuriously affect the working or management of any canal or inland navigation.

(2) Any expenses incurred by a local authority under this section in connection with any houses provided or to be provided under a scheme shall be treated as part of the expenses of carrying out that scheme.

Provisions as to housing schemes outside area of local authority.

109.—(1) Where a housing scheme to which this section applies has been carried into effect by a local authority outside their own area, and for the purposes of the scheme public streets or roads have been constructed and completed by that local authority, the liability to maintain the streets or roads shall vest in the council of the borough or district in which the scheme was carried out, unless that council are, or on appeal the Minister is, satisfied that the streets or roads have not

been properly constructed in accordance with the plans and specifications approved by the Minister.

(2) Where such a scheme has been carried out by a local authority outside their own area, and a habitation certificate from the council of the borough or district in which the houses are situate is in that borough or district required under any local Act or byelaw, such a certificate shall not be necessary in respect of any houses provided under the scheme which were constructed in accordance with plans and specifications approved by the Minister.

(3) Where a scheme to which this section applies has been carried out, whether before or after the passing of this Act, by the London County Council within the area of a metropolitan borough, the liability to maintain the streets or roads shall vest in the council of that metropolitan borough, unless that council are, or on appeal the Minister is, satisfied that the streets or roads have not been properly constructed in accordance with plans and specifications approved by the Minister.

(4) The schemes to which this section applies are housing schemes made and approved under Part III. of this Act, or the corresponding provision of any enactments repealed by this Act, and re-housing schemes in connection with a scheme made under Part II. of this Act or the corresponding provisions of any enactments repealed by this Act, whether such housing or re-housing schemes have been carried out before the passing of this Act or are carried out thereafter.

Power of local authorities to enforce covenants against owner for the time being of land.

110. Where a local authority have sold land acquired by them under this Act, or any enactment repealed by this Act, and the purchaser of the land has entered into a covenant with the local authority concerning the land, the authority shall have power to enforce the covenant against the persons deriving title under that purchaser, notwithstanding that the authority are not in possession of or interested in any land for the benefit of which the covenant was entered into, in like manner and to the like extent as if they had been possessed of or interested in such land.

See the Housing Act 1935 s. [illegible]

Power of local authority to

111.—(1) A local authority acting under this Act may appoint a committee consisting of so many persons as they may think fit, for any purposes of

appoint committees.

this Act which in the opinion of such authority would be better regulated and managed by means of a committee:

Provided that a committee so appointed shall consist as to a majority of its members of members of the appointing local authority, and shall in no case be authorised to borrow any money, or to make any rate, and shall be subject to any regulations and restrictions which may be imposed by the authority that formed it.

(2) In the case of a county council other than the London County Council all matters relating to the exercise and performance by the council of their powers and duties under this Act (except the power of raising a rate or borrowing money) shall stand referred to the public health and housing committee of the council, and the council, before exercising any such powers, shall, unless in their opinion the matter is urgent, receive and consider the report of the public health and housing committee with respect to the matter in question, and the council may also delegate to the public health and housing committee, with or without restrictions or conditions as they think fit, any of their powers under this Act, except the power of raising a rate or borrowing money and except any power of resolving that the powers of a district council in default should be transferred to the council.

Joint action by local authorities.

112. Where, upon an application made by one of the local authorities concerned, the Minister is satisfied that it is expedient that any local authorities should act jointly for any purposes of this Act, either generally or in any special case, the Minister may by order make provision for the purpose, and any provisions so made shall have the same effect as if they were contained in a Provisional Order made under section two hundred and seventy-nine of the Public Health Act, 1875, for the formation of a united district and confirmed by Parliament.

Sale and disposal of land and houses.

113. Notwithstanding anything contained in this Act, it shall not be obligatory upon a local authority to sell and dispose of any lands or houses acquired or constructed by them for any of the purposes of this Act or any enactment repealed by this Act unless ordered to do so by the Minister in exercise of any powers conferred on him by this Act.

114. A local authority may accept a donation of land or money or other property for any of the purposes of this Act, and it shall not be necessary to enrol any assurance with respect to any such property under the Mortmain and Charitable Uses Act, 1888. Donations for housing purposes. 51 & 52 Vict. c. 42.

Powers of the Minister.

115.—(1) The procedure on any appeal to the Minister under this Act, including costs, shall be such as the Minister may by rules determine, and on any such appeal the Minister may make such order in the matter as he thinks equitable, and any orders so made shall be binding and conclusive on all parties, and, where the appeal is against any notice, order, or apportionment given or made by a local authority, the notice, order, or apportionment may be confirmed, varied, or quashed as the Minister thinks just: Appeals to Minister.

Provided that—

(*a*) the Minister may at any stage of the proceedings on appeal, and shall, if so directed by the High Court, state in the form of a special case for the opinion of the court any question of law arising in the course of an appeal; and

(*b*) the rules shall provide that the Minister shall not dismiss any appeal without having first held a public local inquiry, unless the appellant fails to prosecute his appeal with due diligence.

(2) Any notice, order, or apportionment as respects which an appeal to the Minister is given under this Act shall not become operative, until either the time within which an appeal can be made under this Act has elapsed without an appeal being made, or, in case an appeal is made, the appeal is determined or abandoned, and no work shall be done or proceedings taken under any such notice, order, or apportionment, until it becomes operative.

(3) The Minister may, before considering any appeal which may be made to him under this Act, require the appellant to deposit such sum to cover the costs of the appeal as may be fixed by the rules made by him with reference to appeals.

Local inquiries.

116.—(1) For the purposes of the execution of his powers and duties under this Act, the Minister may cause such local inquiries to be held as he may think fit, and the costs incurred in relation to any such local inquiry (including the remuneration of any person employed by the Minister for the purpose of the inquiry), shall be paid by the local authorities and persons concerned in the inquiry, or by such of them and in such proportions as the Minister may direct, and the Minister may certify the amount of the costs incurred, and any sum so certified and directed by the Minister to be paid by any local authority or person shall be a debt to the Crown from such local authority or person.

(2) Sections two hundred and ninety-three to two hundred and ninety-six and section two hundred and ninety-eight of the Public Health Act, 1875, shall apply for the purpose of any order to be made by the Minister or any local inquiry which he may cause to be held in pursuance of any Part of this Act.

Power of Minister to obtain a report on any crowded area.

117. If it appears to the Minister that owing to density of population, or any other reason, it is expedient to inquire into the circumstances of any area with a view to determining whether any powers under this Act should be put into force in that area or not, the Minister may require the local authority to make a report to him containing such particulars as to the population of the district and other matters as he may direct, and the local authority shall comply with the requirement of the Minister, and any expenses incurred by them in so doing shall be paid as expenses incurred in the execution of such Part of this Act as the Minister may determine.

Arrangements between the Minister and other Departments.

118. The Minister may make arrangements with any other Government Department for the exercise and performance by that Department of any of his powers and duties under this Act which in his opinion could be more conveniently so exercised and performed, and in such case the Department and officers of the Department shall have the same powers and duties as are by this Act conferred on the Minister and his officers.

Notices, Orders, &c.

Service of notices, &c.

119. Any notice, summons, writ or other proceeding at law or otherwise required to be served on a local

authority in relation to carrying into effect the objects or purposes of this Act, or any of them, may be served upon that authority by delivering it to their clerk, or leaving it at his office with some person employed there, or sending it by post in a registered letter addressed to that authority or their clerk at the office of that authority. on local authorities.

120.—(1) An order in writing made by a local authority under this Act shall be under their seal and authenticated by the signature of their clerk or his lawful deputy. Orders, notices, &c., by local authorities.

(2) A notice, demand, or other written document proceeding from the local authority under this Act shall be signed by their clerk or his lawful deputy.

121.—(1) Subject to the foregoing provisions as to the service of notices, summonses, writs and other proceedings at law or otherwise on local authorities, any notice, order, or other document required or authorised to be served under this Act may be served either— Service of other notices, &c.

(*a*) by delivering it to the person on whom it is to be served; or

(*b*) by leaving it at the usual or last-known place of abode of that person ; or

(*c*) by forwarding it by post in a pre-paid registered letter addressed to that person at his usual or last-known place of abode, or in the case of an incorporated company or registered society addressed to the secretary of the company or society at the registered or principal office of the company or society; or

(*d*) if addressed to the "owner" or "occupier" of premises, by delivering it to some person on the premises, or if there is no person in the premises on whom it can be so served, then by affixing it to some conspicuous part of the premises.

(2) Subject as aforesaid, any notice, order or other document which is by this Act required or authorised to be served on the owner or occupier of any premises may be addressed to the "owner" or "occupier" of the premises (naming them) without further name or description.

Power to prescribe forms and to dispense with advertisements and notices.

122.—(1) The Minister may by order prescribe the form of any notice, advertisement, or other document, to be used in connection with the powers and duties of a local authority or of the Minister under this Act, and the forms so prescribed, or forms as near thereto as circumstances admit, shall be used in all cases to which those forms are applicable.

(2) The Minister may dispense with the publication of advertisements or the service of notices required to be published or served by a local authority under this Act, if he is satisfied that there is reasonable cause for dispensing with the publication or service.

(3) Any such dispensation may be given by the Minister either before or after the time at which the advertisement is required to be published or the notice is required to be served, and either unconditionally or upon such conditions as to the publication of other advertisements or the service of other notices or otherwise as the Minister thinks fit, due care being taken by the Minister to prevent the interests of any persons being prejudiced by the dispensation.

Offences.

Penalty for obstructing the execution of Act.

123. Where any person obstructs the medical officer of health or any officer of the local authority, or of the Minister, or any person authorised to enter houses, premises, or buildings in pursuance of this Act in the performance of anything which such officer, authority, or person is by this Act required or authorised to do, he shall, on summary conviction, be liable to a fine not exceeding twenty pounds.

Penalty for preventing execution of repairs, &c.

124.—(1) If any person, after receiving notice of the intended action—

(*a*) being the occupier of any premises, prevents the owner thereof or his officers, agents, servants or workmen, from carrying into effect with respect to those premises any of the provisions of Part I. of this Act; or

(*b*) being the owner or occupier of any premises prevents the medical officer of health or any officers, agents, servants or workmen of such officer or of the local authority from so doing; or

(c) being the inmate of any premises, prevents the owner thereof or any other person upon whom any obligations with respect to the premises are imposed by byelaws under Part I. of this Act from complying with such obligations;

a court of summary jurisdiction on proof thereof may order that person to permit to be done on the premises all things requisite for carrying into effect such provisions or the fulfilment of such obligations with respect to the premises.

(2) If any such person fails to comply with any such order of a court of summary jurisdiction, he shall for each day during which the failure continues be liable on summary conviction to a fine not exceeding twenty pounds.

Prohibition on persons interested voting as members of local authority.

125.—(1) A person shall not vote as member of a local authority or county council or any committee thereof upon any resolution or question which is proposed or arises in pursuance of this Act, if it relates to any house, building, or land in which he is beneficially interested:

Provided that a person shall not, by reason only of the fact that he occupies a house at a rental from a local authority within the meaning of Part III. of this Act, be disqualified from being elected or being a member thereof or any committee thereof.

(2) If any person votes in contravention of this section, he shall, on summary conviction, be liable for each offence to a fine not exceeding fifty pounds; but the fact of his giving the vote shall not invalidate any resolution or proceeding of the local authority or county council.

Description of owner in proceedings.

126. Where in any proceedings under Part I. of this Act it is necessary to refer to the owner of any premises, it shall be sufficient to designate him as the "owner" thereof without name or further description.

Miscellaneous.

Power of entry.

127. Any person authorised in writing stating the particular purpose or purposes for which the entry is

authorised, by the local authority or the Minister, may at all reasonable times, on giving twenty-four hours' notice to the occupier and to the owner, if the owner is known, of his intention, enter any house, premises, or buildings—

(*a*) for the purpose of survey or valuation, in the case of houses, premises, or buildings which the local authority are authorised to purchase compulsorily under this Act; and

(*b*) for the purpose of survey and examination, in the case of any house in respect of which a closing order or an order for demolition has been made; or

(*c*) for the purpose of survey and examination, where it appears to the authority or Minister that survey or examination is necessary in order to determine whether any powers under this Act should be exercised in respect of any house, premises, or building.

Exclusion of application of 10 & 11 Geo. 5. c. 17.

128. Nothing in the Increase of Rent and Mortgage Interest (Restrictions) Act, 1920, or in the enactments amending that Act, shall be deemed to affect the provisions of Part I. of this Act relating to the obtaining possession of a house with respect to which a closing order has been made, or to prevent a local authority from obtaining possession of any house the possession of which is required by them for the purpose of exercising their powers under this Act or under any scheme made under this Act or any enactment repealed by this Act.

Payment of purchase or compensation money by one local authority to another.

129.—(1) Any purchase money or compensation payable in pursuance of this Act by a local authority in respect of any lands, estate, or interest of another local authority which would, but for this section, be paid into court in manner provided by the Lands Clauses Acts may, if the Minister consents, instead of being paid into court, be paid and applied as the Minister may determine.

(2) Any such decision of the Minister as to the payment and application of any such purchase money or compensation shall be final and conclusive.

Provisions as to medical officers of health.

130.—(1) Every representation made by a medical officer of health in pursuance of this Act shall be in writing.

(2) Anything which under this Act is authorised or required to be done by or to a medical officer of health may be done by or to any person authorised to act temporarily as such medical officer of health.

(3) The London County Council may, with the consent of the Minister, at any time appoint one or more legally qualified practitioner or practitioners, with such remuneration as they think fit, for the purpose of carrying into effect any Part of this Act.

(4) Any medical officer of health appointed by the London County Council, and any officer appointed under this section by the London County Council, shall be deemed to be a medical officer of health of a local authority within the meaning of this Act.

Exemption from s. 133 of 8 & 9 Vict. c. 18.

131. Section one hundred and thirty-three of the Lands Clauses Consolidation Act, 1845 (relating to land tax and poor rate) shall not apply in the case of any lands of which a local authority become possessed by virtue of this Act or any enactment repealed by this Act.

Provisions with respect to money applicable under trusts for housing purposes.

132.—(1) If in any case it appears to the Minister that the institution of legal proceedings is requisite or desirable with respect to any property required to be applied under any trusts for the provision of dwelling-houses available for the working classes, or that the expediting of any such legal proceedings is requisite or desirable, the Minister may certify the case to the Attorney-General, and the Attorney-General, if he thinks fit, shall institute any legal proceedings or intervene in any legal proceedings already instituted in such manner as he thinks proper under the circumstances.

(2) Before preparing any scheme with reference to property required to be applied under any trusts for the provision of dwelling-houses available for the working classes, the court or body who are responsible for making the scheme shall communicate with the Minister and receive and consider any recommendations made by the Minister with reference to the proposed scheme.

Application of Act to New Forest. 2 Edw. 7. c. cxcviii.

133. The provision of houses under this Act shall be deemed to be a local sanitary requirement for the purpose of the New Forest (Sale of Lands for Public Purposes) Act, 1902: Provided that the total area of land being part of the New Forest which may be sold or let for the provision of houses shall not exceed thirty acres.

Powers of Act to be cumulative.

134. All powers given by this Act shall be deemed to be in addition to and not in derogation of any other powers conferred by Act of Parliament, law, or custom, and such other powers may be exercised in the same manner as if this Act had not passed, and nothing in this Act shall exempt any person from any penalty to which he would have been subject if this Act had not passed:

Provided that a local authority shall not, by reason of any local Act relating to a place within its jurisdiction, be exempted from the performance of any duty or obligation to which such authority are subject under any Part of this Act.

Definitions.

135. In this Act, unless the context otherwise requires—

"Asylums Board" means the Lancashire Asylums Board, the West Riding of Yorkshire Asylums Board, the Staffordshire Mental Hospitals Board and any other body constituted for the administration of the enactments relating to lunacy on behalf of any combination of county councils or county borough councils;

"Building byelaws" include byelaws made by any local authority under section one hundred and fifty-seven of the Public Health Act, 1875, as amended by any subsequent enactment, with respect to new buildings including the drainage thereof and new streets, and any enactments in any local Acts dealing with the construction and drainage of new buildings and the laying out and construction of new streets, and any byelaws made with respect to such matters under any such local Act;

"Contributory place" has the same meaning as in the Public Health Act, 1875;

"Common Council" means the Mayor, Aldermen and Councillors of the City of London in common council assembled;

"County of London," except where specified to be the administrative county of London, means the administrative county of London exclusive of the City of London;

"Dwelling-house" includes any yard, garden, outhouses, and appurtenances belonging thereto or usually enjoyed therewith;

"Housing trust" means a corporation or body of persons which by the terms of its constituent instrument, is required to devote the whole of its funds, including any surplus which may arise from its operations, to the provision of houses for persons the majority of whom are in fact members of the working classes, and to other purposes incidental thereto;

"Land" includes any right over land;

"Owner," includes any person who under the Lands Clauses Acts would be enabled to sell and convey land to the promotors of an undertaking, and for the purposes of Part I. of this Act also includes any lessee or mortgagee of premises required to be dealt with under that Part of this Act, except a person holding or entitled to the rents and profits of the premises under a lease the original term whereof is less than twenty-one years;

"Public Health Acts" mean as respects London, the Public Health (London) Act, 1891, and the Acts amending that Act, and elsewhere the Public Health Act, 1875, and the Acts amending that Act;

"Public utility society" means a society registered under the Industrial and Provident Societies' Acts, 1893 to 1913, the rules whereof prohibit the issue of any share or loan capital with interest or dividend exceeding the rate for the time being prescribed by the Treasury;

"Street" includes any court, alley, passage, square, or row of houses, whether a thoroughfare or not;

"The Minister" means the Minister of Health.

Repeals.

136.—(1) The enactments mentioned in the Sixth Schedule to this Act are, so far as they apply to England and Wales, hereby repealed to the extent specified in the third column of that schedule :

Provided that—

(*a*) nothing in this repeal shall affect any scheme, order, byelaw, rule, regulation, or representation made, notice given, or charge effected under any enactment hereby repealed, but any such scheme, order, byelaw, rule, regulation, representation, notice, and charge shall have effect as if made, given, or effected under the corresponding provision of this Act and may be amended, varied, repealed, revoked, or enforced accordingly;

(*b*) any document referring to any Act or enactment so repealed shall be construed as referring to this Act or the corresponding enactment in this Act;

(*c*) nothing in this repeal shall affect any appointment of any officer made under or by virtue of any enactment so repealed, but any such officer shall continue in office and shall be deemed to have been appointed under this Act.

(2) The mention of particular matters in this section shall not be held to prejudice or affect the general application of section thirty-eight of the Interpretation Act, 1889, with regard to the effect of repeals.

52 & 53 Vict. c. 63.

Short title, commencement and extent.

137.—(1) This Act may be cited as the Housing Act, 1925.

(2) This Act shall come into operation on the first day of July, nineteen hundred and twenty-five.

(3) This Act shall not extend to Scotland or Northern Ireland.

SCHEDULES.

FIRST SCHEDULE.

Sections 21 46.

Rules as to Assessment of Compensation.

Part I.

Rules applicable in the case of Lands included in an Improvement or Reconstruction Scheme only for the purpose of making the Scheme efficient, and not on account of the Sanitary Condition of the Premises thereon or of those Premises being Dangerous or Prejudicial to Health.

1. Evidence shall be receivable by the arbitrator to prove that the rental of the premises was enhanced by reason of the same being used for illegal purposes or being so overcrowded as to be dangerous or injurious to the health of the inmates, and, if the arbitrator is satisfied by such evidence, the compensation shall, so far as it is based on rental, be based on the rental which would have been obtainable if the premises were occupied for legal purposes and only by the number of persons whom the premises were, under all the circumstances of the case, fitted to accommodate without such overcrowding.

2. Evidence shall be receivable by the arbitrator to prove that the premises are in a state of defective sanitation or are not in reasonably good repair, and if the arbitrator is satisfied by such evidence, the compensation shall be the amount estimated as the value of the premises if they had been put into a sanitary condition or reasonably good repair after deducting the estimated expense of putting them into such condition or repair.

The local authority may tender such evidence as aforesaid before the arbitrator, notwithstanding that they have not taken any steps with a view to remedying the defects or evils disclosed by the evidence.

3. The arbitrator shall have regard to and make an allowance in respect of any increased value which, in his opinion, will be given to other premises of the same owner by the alteration or demolition by the local authority of any buildings.

1ST SCH. —*cont.*

4. Subject to the foregoing provisions the compensation to be paid shall be assessed in accordance with the provisions of the Acquisition of Land (Assessment of Compensation) Act, 1919.

PART II.

RULES APPLICABLE IN THE CASE OF THE PURCHASE OF LANDS ON WHICH OBSTRUCTIVE BUILDINGS ARE ERECTED.

1. Evidence shall be receivable by the arbitrator to prove that the rental of the premises was enhanced by reason of the same being used for illegal purposes or being so overcrowded as to be dangerous or injurious to the health of the inmates, and, if the arbitrator is satisfied by such evidence, the compensation shall, so far as it is based on rental, be based on the rental which would have been obtainable if the premises were occupied for legal purposes and only by the number of persons whom the premises were, under all the circumstances of the case, fitted to accommodate without such overcrowding as is dangerous or injurious to the health of the inmates.

2. Evidence shall be receivable by the arbitrator to prove that the premises are in a state of defective sanitation or are not in reasonably good repair, and if the arbitrator is satisfied by such evidence, the compensation shall be the amount estimated as the value of the premises if they had been put into a sanitary condition or into reasonably good repair after deducting the estimated expense of putting them into such condition or repair.

The local authority may tender such evidence as aforesaid before the arbitrator, notwithstanding that they have not taken any steps with a view to remedying the defects or evils disclosed by the evidence.

3. The arbitrator may, by one award, settle the amount or amounts of compensation payable in respect of all or any of the houses or buildings included in one or more order or orders made by the local authority; but he may, and, if the local authority request him so to do, shall, from time to time make an award respecting a portion only of the disputed cases brought before him.

4. The arbitrator shall have regard to and make an allowance in respect of any increased value which, in his opinion, will be given to other premises of the same owner by the demolition of the obstructive building.

5. Subject to the foregoing provisions the compensation to be paid shall be assessed in accordance with the provisions of the Acquisition of Land (Assessment of Compensation) Act, 1919.

1st Sch. —*cont.*

PART III.

RULES APPLICABLE WHERE OBSTRUCTIVE BUILDINGS ARE PULLED DOWN, THE OWNER RETAINING THE SITE.

1. The estimate of the value of the house or building to be pulled down shall be based on the fair market value as estimated at the time of the valuation being made of the house or building and of the several interests therein, due regard being had to the nature and then condition of the property and the probable duration of the buildings in their existing state and to the state of repair thereof, and rules 1, 2, 3, and 4 of Part II. of this Schedule shall apply.

2. No allowance shall be made by reason of the pulling down being compulsory.

3. Subject to the foregoing provisions the compensation to be paid shall be assessed under the Acquisition of Land (Assessment of Compensation) Act, 1919, and the provisions of that Act other than section two thereof, shall apply accordingly, notwithstanding that no land is acquired compulsorily.

SECOND SCHEDULE.

Section 40.

PROVISIONS SUBJECT TO WHICH THE LANDS CLAUSES ACTS ARE INCORPORATED IN AN ORDER CONFIRMING AN IMPROVEMENT OR RECONSTRUCTION SCHEME.

(1) The title to be made in the case of the purchase of an interest in fee simple in land, whether the purchase is compulsory or by agreement, shall commence twenty years previous to the date of the notice to treat or the agreement to sell, unless there has been an absolute conveyance on sale within twenty years, and more than ten years, previous to that date, in which case the title shall commence with such conveyance: Provided that the local authority shall not be prevented if they think fit from requiring at their own expense any further abstract or evidence of title respecting any such lands as aforesaid in addition to the title hereinbefore mentioned.

(2) Notwithstanding anything in section ninety-two of the Lands Clauses Consolidation Act, 1845, the arbitrator may determine that such part of any house, building, or manufactory as is proposed to be taken by the local authority can be taken without material damage to such house, building, or manufactory, and if he so determines may award compensation in respect of the severance of the part so proposed to be taken, in addition

2ND SCH. —*cont.*

to the value of that part, and thereupon the party interested shall be required to sell and convey to the local authority such part, without the local authority being obliged to purchase the other part or the whole of such house, building, or manufactory.

Section 64.

THIRD SCHEDULE.

PROVISIONS AS TO THE COMPULSORY ACQUISITION OF LAND BY A LOCAL AUTHORITY FOR THE PURPOSES OF PART III. OF THIS ACT.

(1) Where a local authority propose to purchase land compulsorily, the local authority may submit to the Minister an order putting in force as respects the land specified in the order the provisions of the Lands Clauses Acts with respect to the purchase and taking of land otherwise than by agreement.

(2) An order under this schedule shall be of no force unless and until it is confirmed by the Minister, and the Minister may confirm the order either without modification or subject to such modifications as he thinks fit, and an order when so confirmed shall, save as otherwise expressly provided by this schedule, become final and have effect as if enacted in this Act; and the confirmation by the Minister shall be conclusive evidence that the requirements of this Act have been complied with, and that the order has been duly made and is within the powers of this Act.

(3) The order shall be in the form prescribed by the Minister, and shall contain such provisions as the Minister may prescribe for the purpose of carrying the order into effect, and of protecting the local authority and the persons interested in the land, and shall incorporate, subject to the necessary adaptations—

(*a*) the Lands Clauses Acts (except section one hundred and twenty-seven of the Lands Clauses Consolidation Act, 1845) as modified by the Acquisition of Land (Assessment of Compensation) Act, 1919; and

8 & 9 Vict. c. 20.

(*b*) sections seventy-seven to eighty-five of the Railways Clauses Consolidation Act, 1845.

(4) The order shall be published by the local authority in the manner prescribed by the Minister, and such notice shall be given both in the locality in which the land is proposed to be acquired, and to the owners, lessees, and occupiers of that land as may be prescribed by the Minister.

(5) If within such period as may be prescribed by the Minister no objection to the order has been presented to the Minister by a person interested in the land, or if every such objection has been withdrawn, the Minister shall, without further

enquiry, confirm the order unless he is of opinion that the land is unsuited for the purpose for which it is proposed to be acquired, but, if such an objection has been presented and has not been withdrawn, the Minister shall forthwith cause a public inquiry to be held in the locality in which the land is proposed to be acquired, and the local authority and all persons interested in the land and such other persons as the person holding the inquiry in his discretion thinks fit to allow shall be permitted to appear and be heard at the inquiry, and the Minister shall, before confirming the order, duly consider the report of the person by whom a public inquiry is held.

(6) In construing, for the purposes of this schedule or any order made thereunder, any enactment incorporated with the order, this Act, together with the order, shall be deemed to be the special Act, and the local authority shall be deemed to be the promotors of the undertaking.

(7) Where the land is glebe land or other land belonging to an ecclesiastical benefice, the order shall provide that sums agreed upon or awarded for the purchase of the land, or to be paid by way of compensation for the damage to be sustained by the owner by reason of severance or other injury affecting the land, shall not be paid as directed by the Lands Clauses Acts, but shall be paid to the Ecclesiastical Commissioners to be applied by them as money paid to them upon a sale, under the provisions of the Ecclesiastical Leasing Acts, of land belonging to a benefice.

(8) The reference to sections seventy-eight to eighty-five of the Railways Clauses Consolidation Act, 1845, shall be construed as a reference to those sections as originally enacted and not as a reference to the provisions which by virtue of the Mines (Working Facilities and Support) Act, 1923, are in certain cases to be substituted for those sections. 13&14Geo. 5. c. 20.

FOURTH SCHEDULE.

Section 87.

PROVISIONS AS TO LOCAL BONDS.

1. Local bonds shall—

(*a*) be secured upon all the rates, property, and revenues of the local authority;

(*b*) bear interest at such rate of interest as the Treasury may from time to time fix;

(*c*) be issued in denominations of five, ten, twenty, fifty, and one hundred pounds and multiples of hundred pounds;

(*d*) be issued for periods of not less than five years.

4TH SCH. —*cont.*

2. Local bonds shall be exempt from stamp duty under the Stamp Act, 1891, and no duty shall be chargeable under section eight of the Finance Act, 1899, as amended by section ten of the Finance Act, 1907, in respect of the issue of any such bonds.

54 & 55 Vict. c. 39.
62 & 63 Vict. c. 9.
7 Edw. 7. c. 13.

3. The provisions of section one hundred and fifteen of the Stamp Act, 1891 (which relates to composition for stamp duty) shall, with the necessary adaptations, apply in the case of any local authority by whom local bonds are issued as if those bonds were stock or funded debt of the authority within the meaning of that section.

4. A local authority shall, in the case of any person who is the registered holder of local bonds issued by that authority of a nominal amount not exceeding in the aggregate one hundred pounds, pay the interest on the bonds held by that person without deduction of income tax, but any such interest shall be accounted for and charged to income tax under the third case of Schedule D. subject, however, to any provision of the enactments relating to income tax with respect to exemption or abatement.

5. Local bonds issued by a local authority shall be accepted by that authority at their nominal value in payment of the purchase price of any house erected by or on behalf of any local authority in pursuance of any scheme under this Act.

6. The Minister may, with the approval of the Treasury, make regulations with respect to the issue (including terms of issue), transfer and redemption of local bonds and the security therefor, and any such regulations may apply, with or without modifications, any provisions of the Local Loans Act, 1875, and the Acts amending that Act, and of any Act relating to securities issued by the London County Council or by any other local or public body.

38 & 39 Vict. c. 83.

7. For the purposes of this Schedule the expression "local authority" includes a county council.

Section 98.

FIFTH SCHEDULE.

PROVISIONS AS TO REHOUSING IN CASE OF DISPLACEMENT OF PERSONS OF THE WORKING CLASS.

(1) If in the administrative county of London or in any borough or urban district, or in any parish not within a borough or urban district, the undertakers have power to take under the enabling Act working-men's dwellings occupied by thirty or more persons belonging to the working class, the undertakers shall not enter on any such dwellings in that county, borough, urban district, or parish, until the Minister has either approved of a housing scheme under this schedule or has decided that such a scheme is not necessary.

5TH SCH. —*cont.*

For the purposes of this schedule a house shall be considered a working-man's dwelling if wholly or partially occupied by a person belonging to the working classes, and for the purpose of determining whether a house is a working-man's dwelling or not, and also for determining the number of persons belonging to the working classes by whom any dwelling-houses are occupied, any occupation on or after the fifteenth day of December next before the passing of the enabling Act, or, in the case of land acquired compulsorily under a general Act without the authority of an order, next before the date of the application to the Minister under this schedule, for his approval of or decision with respect to a housing scheme, shall be taken into consideration.

(2) The housing scheme shall make provision for the accommodation of such number of persons of the working class as is, in the opinion of the Minister, taking into account all the circumstances, required, but that number shall not exceed the aggregate number of persons of the working class displaced; and in calculating that number the Minister shall take into consideration not only the persons of the working class who are occupying the working-men's dwellings which the undertakers have power to take, but also any persons of the working class who, in the opinion of the Minister, have been displaced within the previous five years in view of the acquisition of land by the undertakers.

(3) Provision may be made by the housing scheme for giving undertakers who are a local authority, or who have not sufficient powers for the purpose, power for the purpose of the scheme to appropriate land or to acquire land, either by agreement or compulsorily under the authority of a Provisional Order, and for giving any local authority power to erect dwellings on land so appropriated or acquired by them, and to sell or dispose of any such dwellings, and to raise money for the purpose of the scheme as for the purposes of Part III. of this Act, and for regulating the application of any money arising from the sale or disposal of the dwellings; and any provisions so made shall have effect as if they had been enacted in an Act of Parliament.

(4) The housing scheme shall provide that any lands acquired under the scheme shall, for a period of twenty-five years from the date of the scheme, be appropriated for the purpose of dwellings for persons of the working class, except so far as the Minister may dispense with such appropriation; and every conveyance, demise, or lease of any such land shall be endorsed with notice of this provision, and the Minister may require the insertion in the scheme of any provisions requiring a certain standard of house to be erected under the scheme, or any conditions to be complied with as to the mode in which the dwelling-houses are to be erected.

5TH SCH. —*cont.*

(5) If the Minister does not hold a local inquiry with reference to a housing scheme, he shall, before approving the scheme send a copy of the draft scheme to every local authority, and shall consider any representation by any such authority made within the time fixed by the Minister.

(6) The Minister may, as a condition of his approval of a housing scheme, require that the new dwellings under the scheme, or some part of them, shall be completed and fit for occupation before possession is taken of any working-men's dwellings under the enabling Act.

(7) Before approving any scheme the Minister may if he thinks fit, require the undertakers to give such security as the Minister considers proper for carrying the scheme into effect.

(8) The Minister may hold such enquiries as he may think fit for the purpose of his duties under this schedule, and subsections one and five of section eighty-seven of the Local Government Act, 1888 (which relate to local inquiries), shall apply for the purpose, and where the undertakers are not a local authority shall be applicable as if they were such an authority.

(9) If the undertakers enter on any working-men's dwellings in contravention of the provisions of this schedule, or of any conditions of approval of the housing scheme made by the Minister, they shall be liable to a penalty not exceeding five hundred pounds in respect of every such dwelling.

Any such penalty shall be recoverable by the Minister by action in the High Court, and shall be carried to and form part of the Consolidated Fund.

(10) If the undertakers fail to carry out any provision of the housing scheme, the Minister may make such order as he may think necessary or proper for the purpose of compelling them to carry out that provision, and any such order may be enforced by mandamus.

(11) The Minister may, on the application of the undertakers, modify any housing scheme which has been approved by him under this schedule, and any modifications so made shall take effect as part of the scheme.

(12) For the purposes of this schedule—

(*a*) The expression "undertakers" means any authority, company, or person who are acquiring land compulsorily or by agreement under any local Act or Provisional Order or order having the effect of an Act, or are acquiring land compulsorily under any general Act;

(*b*) The expression "enabling Act" means any Act of Parliament or Order under which the land is acquired;

(*c*) The expression "local authority" means the council of any administrative county and the district council

5th Sch. —*cont.*

of any county district, or, in London, the council of any metropolitan borough, in which in any case any houses in respect of which the re-housing scheme is made are situated, or in the case of the city of London, the common council;

(*d*) The expression "dwelling" or "house" means any house or part of a house occupied as a separate dwelling;

(*e*) The expression "working class" includes mechanics, artisans, labourers, and others working for wages, hawkers, costermongers, persons not working for wages, but working at some trade or handicraft without employing others, except members of their own family, and persons other than domestic servants whose income in any case does not exceed an average of three pounds a week, and the families of any of such persons who may be residing with them.

SIXTH SCHEDULE.

Section 136.

Session and Chapter.	Short Title.	Extent of Repeal.
44 & 45 Vict. c. 38.	The Public Works Loans Act, 1881.	Section eleven.
53 & 54 Vict. c. 70.	The Housing of the Working Classes Act, 1890.	The whole Act except subsection (1) of section seventy-four.
53 & 54 Vict. c. ccxliii.	The London Council (General Powers) Act, 1890.	Section twenty-five.
56 & 57 Vict. c. 73.	The Local Government Act, 1894.	Subsection (2) of section six.
57 & 58 Vict. c. 55.	The Housing of the Working Classes Act, 1894.	The whole Act.
62 & 63 Vict. c. 14.	The London Government Act, 1899.	In Part II. of the Second Schedule the words "Power to adopt Part "III. of the Housing of "the Working Classes "Act, 1890," and the words "The power to "be exercised only "within the borough" where those words secondly occur.

6TH SCH. —*cont.*

Session and Chapter.	Short Title.	Extent of Repeal.
63 & 64 Vict. c. 59.	The Housing of the Working Classes Act, 1900.	The whole Act, so far as unrepealed.
3 Edw. 7. c. 39	The Housing of the Working Classes Act, 1903.	The whole Act.
9 Edw. 7. c. 44	The Housing, Town Planning, &c., Act, 1909.	Part I., except section seven. Subsection (1) of section sixty-nine, and in subsections (2) and (3) of the same section the words "the clerk or" and "clerk or." Part IV. except so far as it relates to town planning. First, Second, and Sixth Schedules.
4 & 5 Geo. 5. c. 33.	The Public Works Loans Act, 1914.	Section four.
9 & 10 Geo. 5. c. 35.	The Housing, Town Planning, &c., Act, 1919.	Part I., except sections seven, nineteen, twenty-three, twenty-five, thirty-one, and thirty-six, and subsection (4) of section twenty-four and section forty, so far as required for the interpretation of the unrepealed provisions of the Act. First, Second, and Fifth Schedules.
9 & 10 Geo. 5. c. 57.	The Acquisition of Land (Assessment of Compensation) Act, 1919.	In section seven the words "for the purposes of "Part I. or Part II. of "the Housing of the "Working Classes Act, "1890 or" and the words from "and the provi-"sions of the Second "Schedule" to the end of subsection (1).
9 & 10 Geo. 5. c. 99.	The Housing (Additional Powers) Act, 1919.	The whole Act except sections eight, nine, ten, eleven and fifteen.
10 & 11 Geo. 5. c. 76.	The Agriculture Act, 1920	Section thirty-two.

6TH SCH. —*cont.*

Session and Chapter.	Short Title.	Extent of Repeal.
11 & 12 Geo. 5. c. 19.	The Housing Act, 1921 -	Sections two, three, four and nine; section five, except so far as it amends the Small Dwellings Acquisition Act, 1899. Section six, except so far as it amends section ten of the Housing (Additional Powers) Act, 1919.
12 & 13 Geo. 5. c. 33.	The Public Works Loans Act, 1922.	Section four.
13 & 14 Geo. 5. c. 24.	The Housing, &c., Act, 1923.	Sections five, seven to fifteen and seventeen. The First Schedule. The Second Schedule, except so far as it amends sections fifty-nine and sixty-nine of the Housing, Town Planning, &c. Acts, 1909.
14 & 15 Geo. 5. c. 35.	The Housing (Financial Provisions) Act, 1924.	Section twelve. The Second Schedule, so far as it amends section five of the Housing, &c., Act, 1923.

CHAPTER 15.

An Act to consolidate the enactments relating to the Housing of the Working Classes in Scotland. [9th April 1925.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present

Parliament assembled, and by the authority of the same, as follows :—

PART I.

PROVISIONS FOR SECURING THE REPAIR, MAINTENANCE AND SANITARY CONDITIONS OF HOUSES.

Obligations as to Repair of Houses.

Conditions to be implied on letting houses for habitation.

1.—(1) In any contract for letting for habitation a dwelling-house at a rent not exceeding twenty-six pounds, there shall, notwithstanding any stipulation to the contrary, be implied a condition that the house is at the commencement of the tenancy, and an undertaking that the house will be kept by the landlord during the tenancy, in all respects reasonably fit for human habitation :

Provided that the condition and undertaking aforesaid shall not be implied when a house is let for a period of not less than three years upon the terms that it be put by the lessee into a condition in all respects reasonably fit for habitation, and the lease is not determinable at the option of either party before the expiration of three years.

(2) The landlord, or any person authorised by him in writing, may at reasonable times of the day, on giving twenty-four hours' notice in writing to the tenant or occupier, enter any premises to which this section applies for the purpose of viewing the state and condition thereof.

(3) In this section the expression " landlord " means any person who lets to a tenant for habitation any house under any contract referred to in this section, and includes his successors in title, and the expression " dwelling-house " includes part of a dwelling-house.

(4) This section shall apply to a contract made either before or after the commencement of this Act :

Provided that in the case of a house the rent whereof exceeds sixteen pounds this section shall not apply if the contract was made before the thirty-first day of July, nineteen hundred and twenty-three.

Application of s. 1 to dwelling-houses occupied by workmen engaged in agriculture.

2.—(1) Notwithstanding any agreement to the contrary, where under any contract of employment of a workman employed in agriculture the provision of a house or part of a house for the occupation of the workman forms part of the remuneration of the workman, and the provisions of the foregoing section are inapplicable by reason only of the house or part of the house not being let to the workman, there shall be implied as part of the contract of employment the like condition and undertaking as would be implied under those provisions if the house or part of the house were so let, and those provisions shall apply accordingly as if incorporated in this section, with the substitution of "employer" for "landlord" and such other modifications as may be necessary:

Provided that this section shall not affect the obligation of any person other than the employer to repair a house to which this section applies, or any remedy for enforcing any such obligation.

(2) This section shall apply whether the contract of employment was entered into before or after the commencement of this Act, but shall not apply in respect of any period during which the house was occupied under any such contract before the first day of January, nineteen hundred and twenty-one.

Power to local authority to repair houses.

3.—(1) If the owner of any dwelling-house suitable for occupation by persons of the working classes fails to make or keep the house in all respects reasonably fit for human habitation, then, without prejudice to any other powers, the local authority may serve a notice in writing upon the owner of the house, requiring him within a reasonable time, not being less than twenty-one days, specified in the notice, to execute the works specified in the notice as being necessary to make the house in all respects reasonably fit for human habitation:

Provided that, if the house is not capable without reconstruction of being made in all respects reasonably fit for human habitation, the owner may, within twenty-one days after the receipt of such notice, by written counter notice to the local authority, declare his intention of closing the house for human habitation, and thereupon a closing order shall be deemed to have become operative in respect of such house. Any question

arising under this proviso shall, in case of difference between the owner and the local authority, be determined by the sheriff.

(2) If the notice of the local authority is not complied with, then—

(*a*) at the expiration of the time specified in that notice if no such counter notice as aforesaid has been given by the owner; and

(*b*) at the expiration of twenty-one days from the determination by the sheriff if such notice has been given by the owner, and the sheriff has determined that the house is capable without reconstruction of being made in all respects reasonably fit for human habitation,

the local authority may themselves do the work required to be done.

(3) (*a*) Any expenses incurred by the local authority under this section may be recovered from the owner in a summary manner, together with interest at the prescribed rate, from the date of service of a demand for the same till payment thereof.

(*b*) The local authority may by order declare any such expenses to be payable by monthly or annual instalments within a period not exceeding thirty years, with interest at the prescribed rate from the date of service of notice of demand until the whole amount is paid, and any such instalments and interest or any part thereof may be recovered in a summary manner from the owner or occupier, and if recovered from the occupier may be deducted by him from the rent of the house.

(*c*) For the purposes of this subsection, interest at the prescribed rate means interest at such rate as the Board with the approval of the Treasury may from time to time by order fix, and different rates of interest may be fixed in different cases.

(4) An owner may appeal to the sheriff against—

(*a*) any notice requiring him to execute works under this section; or

(*b*) any demand for the recovery of expenses from him under this section; or

(*c*) an order made by the local authority under this section with respect to those expenses;

by giving notice of appeal to the sheriff within twenty-one days after the notice is received or the demand or order is made, as the case may be, or such longer time as the sheriff may allow, and no proceedings shall be taken in respect of any notice, demand or order whilst the appeal is pending :

Provided that no appeal against such a demand or order shall lie if and so far as the appeal raises any question which might have been raised on an appeal against the notice itself.

(5) Any such notice, demand or order shall be binding and conclusive as to any matters which could have been raised on such appeal to the sheriff.

(6) In addition to serving the notice on the owner the local authority may serve copies of the notice on any persons having a right or interest in the premises superior to that of the owner, and it shall be the duty of the owner or any other person having such a right or interest, on being so required by the local authority, to state the name and address of the person from whom he holds, and if he fails to do so, or knowingly makes a mis-statement, he shall be liable on summary conviction to a fine not exceeding five pounds.

(7) Any remedy given by this section for failure to make or keep a house in all respects reasonably fit for human habitation shall be in addition to and not in derogation of any remedy available to the tenant against the landlord, either at common law or otherwise.

(8) In this section " owner " has the same meaning as in the Public Health (Scotland) Act, 1897. 60 & 61 Vict. c. 38.

Power of local authority to acquire closed houses.

4. Where a dwelling-house in respect of which a notice has been served upon the owner by the local authority under subsection (1) of the last foregoing section is not capable without reconstruction of being made in all respects reasonably fit for human habitation, and a closing order has in consequence been deemed to have become operative in respect thereof, the Board may, on the application of the local authority, make an order authorising the local authority to acquire the house, and thereupon this Act shall apply as if the

house were land authorised to be acquired compulsorily for the purposes of a reconstruction scheme under Part II. of this Act, and that land were specified in the scheme as having been included therein on account of the sanitary condition of the premises thereon.

Duty of Local Authority and Medical Officer of Health to Inspect Houses, &c.

Duty of local authority to inspect their district.

5. It shall be the duty of every local authority to cause an inspection of their district to be made from time to time with a view to ascertaining whether any dwelling-house therein is in a state so dangerous or injurious to health as to be unfit for human habitation, and for that purpose it shall be the duty of the local authority, and every officer of the local authority, to comply with such regulations and to keep such records as the Board may prescribe.

Representation by medical officer of health.

6. It shall be the duty of the medical officer of health of every district to represent to the local authority of that district any dwelling-house which appears to him to be in a state so dangerous or injurious to health as to be unfit for human habitation.

Representation on complaint.

7. If in any district any four or more local government electors living in or near to any street complain in writing to the medical officer of health of that district that any dwelling-house in or near that street is in a condition so dangerous or injurious to health as to be unfit for human habitation, or if the parish council or landward committee of any parish in the district of any local authority, not being a town council, make a complaint in writing to the medical officer of health to the like effect with respect to any dwelling-house in the district, the medical officer of health shall forthwith inspect the dwelling-house and transmit to the local authority the complaint, together with his opinion thereon, and if he is of opinion that the dwelling-house is in the condition aforesaid, shall represent the same to the local authority, but the absence of any such complaint shall not excuse him from inspecting any dwelling-house and making a representation thereon to the local authority.

Closing and Demolition Orders.

Duty of local authority as to closing house unfit for human habitation.

8.—(1) If, on the representation of the medical officer of health, or of any other officer of a local authority, or other information given, any dwelling-house appears to the local authority to be in a state so dangerous or injurious to health as to be unfit for human habitation, the local authority shall make a closing order prohibiting the use of the house for human habitation until in the judgment of the local authority the house is rendered fit for that purpose.

(2) Notice of a closing order shall be forthwith served on every owner of the house in respect of which it is made, and any owner aggrieved by the order may appeal to the sheriff by giving notice of appeal to the sheriff within fourteen days after the notice is served upon him.

(3) Where a closing order has become operative the local authority shall serve notice of the order on the person inhabiting the house in respect of which the order is made, and, within such period as is specified in the notice, not being less than fourteen days after the service of the notice, the order shall be obeyed by him, and he and his family shall cease to inhabit the house, and in default he may, on application for the purpose being made by the local authority, be ordered by the sheriff or any two justices of the peace sitting in open court, or any magistrate having jurisdiction in the place, to quit the house within such time as may be specified in the order.

(4) Unless the house has been made unfit for habitation by the wilful act or default of the tenant or of any person for whom as between himself and the owner or landlord he is responsible, the local authority shall make to the tenant such reasonable allowance on account of his expense in removing as may be determined by the local authority with the consent of the owner of the house, or, if the owner of the house fails to consent to the sum determined by the local authority, as may be fixed by the sheriff or any two justices of the peace sitting in open court or any magistrate having jurisdiction in the place, and the amount of the said allowance

shall be recoverable by the local authority from the owner of the house in a summary manner.

(5) The local authority shall determine any closing order made by them if they are satisfied that the house, in respect of which the order has been made, has been rendered fit for human habitation.

(6) If, on the application of any owner of a house, the local authority refuse to determine a closing order, the owner may appeal to the sheriff by giving notice of appeal to the sheriff within fourteen days after the application is refused.

Penalty on re-letting or occupying house ordered to be closed.

9. If—

(*a*) the owner of any dwelling-house in respect of which a closing order is in force, or any other person lets or attempts to let, or occupies or permits to be occupied, that house or any part thereof as a dwelling-house; or

(*b*) the owner of any such house lets or uses the same for any purpose unless he shall previously have obtained the consent of the local authority to the purpose for which such house is proposed to be let or used;

he shall, on summary conviction, be liable to a penalty not exceeding twenty pounds, and, in the event of the offence continuing after conviction thereof, to a further penalty not exceeding five pounds for each day on which the offence is continued after such conviction.

Order for demolition.

10.—(1) Where a closing order in respect of any dwelling-house has remained operative for a period of three months, the local authority shall take into consideration the question of the demolition of the house, and shall give every owner of the house notice of the time (being some time not less than one month after the service of the notice) and place at which the question will be considered, and any owner of the house shall be entitled to be heard when the question is so taken into consideration.

(2) If upon any such consideration the local authority are of opinion that the house has not been rendered fit for human habitation, and that the necessary steps are

not being taken with all due diligence to render it so fit, or that the continuance of any building, being or being part of the house, is a nuisance or dangerous or injurious to the health of the public or of the inhabitants of the neighbouring houses, they shall order the demolition of the house or building.

(3) If any owner undertakes to execute forthwith the works necessary to render the house fit for human habitation, and the local authority consider that it can be so rendered fit for human habitation, the local authority may, if they think fit, postpone the operation of the order for such time, not exceeding six months, as they think sufficient for the purpose of giving the owner an opportunity of executing the necessary works, and if and when the necessary works are completed to their satisfaction, the local authority may determine the closing and demolition orders relating to the house.

(4) Notice of an order for the demolition of a house or building shall be forthwith served on every owner of the house or building in respect of which it is made, and any owner aggrieved by the order may appeal to the sheriff by giving notice of appeal to the sheriff within twenty-one days after the notice of the order is served upon him, or, where the operation of the order has been postponed, for any period within fourteen days after the expiration of that period.

Execution of demolition order.

11.—(1) Where an order for the demolition of a house or building has been made, the owner thereof shall within three months after the order becomes operative proceed to take down and remove the house or building, and if the owner fails therein the local authority shall proceed to take down and remove the house or building and shall sell the materials, and after deducting the expenses incident to such taking down and removal pay over the balance of money (if any) to the owner.

(2) Where the amount realised by the sale of such materials is not sufficient to cover the expenses incident to the taking down and removal of the house or building, the local authority may recover the deficiency from the owner of the house or building in a summary manner.

(3) Where a house or building has been so taken down and removed, no house or other building or erection which will be dangerous or injurious to health shall be erected on the site of such house or building or any part thereof; and if any house, building or erection is erected contrary to the provisions of this subsection, the local authority may at any time order the owner thereof to abate or alter the same, and, in the event of non-compliance with the order, may abate or alter the same, and the expenses of such abatement or alteration shall be recoverable from the owner in a summary manner:

Provided that any person aggrieved by an order under this subsection may appeal to the sheriff on giving notice of appeal within one month after notice of the said order has been served on him.

Closing order in respect of underground rooms.

12.—(1) A room habitually used as a sleeping place, the surface of the floor of which is more than three feet below the surface of the part of the street adjoining or nearest to the room, shall, for the purposes of this Part of this Act, be deemed to be a house so dangerous or injurious to health as to be unfit for human habitation, if the room either—

(*a*) is not on an average at least seven feet in height from floor to ceiling; or

(*b*) does not comply with such regulations as the local authority with the consent of the Board may prescribe for securing the proper ventilation and lighting of such rooms, and the protection thereof against dampness, effluvia or exhalation:

Provided that, if the local authority, after being required to do so by the Board, fail to make such regulations, or such regulations as the Board approve, the Board may themselves make them, and the regulations so made shall have effect as if they had been made by the local authority with the consent of the Board.

(2) A closing order made in respect of a room to which this section applies shall not prevent the room being used for purposes other than those of a sleeping place; and if the occupier of the room after notice of an order has been served upon him fails to comply with

the order, an order to comply therewith may, on summary conviction, be made against him.

(3) A closing order made in respect of any room to which this section applies shall not be treated as a closing order in respect of a house for the purposes of the provisions of this Part of this Act relating to demolition orders.

Prohibition of back-to-back houses.

13.—(1) Notwithstanding anything in any local Act or byelaw in force in any burgh or district, it shall not be lawful to erect any back-to-back houses intended to be used as dwellings for the working classes, and any such house shall be deemed to be in a state so dangerous or injurious to health as to be unfit for human habitation for the purposes of the provisions of this Act:

Provided that nothing in this section shall prevent the erection or use of a house containing several dwellings in which the dwellings are placed back-to-back if the medical officer of health for the burgh or district certifies that the several dwellings are so constructed and arranged as to secure effective ventilation of all habitable rooms in every dwelling.

(2) This section shall apply to any house commenced to be erected after the third day of December, nineteen hundred and nine, except that it shall not apply to houses abutting on any streets, the plans whereof were approved by the local authority before the first day of May, nineteen hundred and nine, in any burgh or district in which, at the third day of December, nineteen hundred and nine, any local Act or byelaws were in force permitting the erection of back-to-back houses.

Obstructive Buildings.

Power to local authority to order obstructive buildings to be pulled down.

14.—(1) If a medical officer of health finds that any building within his district, although not in itself unfit for human habitation, is so situate that by reason of its proximity to or contact with any other buildings it—

(*a*) stops or impedes ventilation, or otherwise makes or conduces to make such other buildings to be in a condition unfit for human habitation or dangerous or injurious to health; or

(*b*) prevents proper measures from being carried into effect for remedying any nuisance injurious to health or other evils complained of in respect of such other buildings;

the medical officer of health shall represent to the local authority the particulars relating to such first-mentioned building (in this Act referred to as "an obstructive building") stating that in his opinion it is expedient that the obstructive building should be pulled down.

(2) Any four or more local government electors in any district or the parish council or landward committee of a parish in the district of any local authority, not being a town council, may make to the local authority of the district a representation as respects any building to the like effect as that of the medical officer under this section.

(3) The local authority on receiving any such representation shall cause a report to be made to them respecting the circumstances of the building and the cost of pulling down the building and acquiring the land, and on receiving such report shall take into consideration the representation and report, and if they decide to proceed, shall cause a copy of both the representation and report to be given to the owner of the land on which the obstructive building stands, with notice of the time and place appointed by the local authority for the consideration thereof; and such owner shall be at liberty to attend and state his objections, and after hearing such objections the local authority shall make an order either allowing the objection or directing that such obstructive building shall be pulled down.

(4) Any such order for the pulling down of an obstructive building shall be subject to appeal in like manner as an order of demolition made by the local authority under this Part of this Act.

Compensation for pullingdown obstructive building.

15.—(1) Where an order of the local authority for pulling down an obstructive building is made under the last foregoing section, and either no appeal is made against the order or an appeal is made and either fails or is abandoned, the local authority shall be authorised to purchase the land on which the obstructive building

is erected in like manner as if they had been authorised by a special Act to purchase the same.

(2) For the purpose of such purchase the provisions of the Lands Clauses Acts with respect to the purchase and taking of lands otherwise than by agreement shall be deemed to be incorporated in this Part of this Act (subject nevertheless to the provisions of this Part of this Act) and for the purpose of the provisions of those Acts this Part of this Act shall be deemed to be the special Act, and the local authority to be the promoters of the undertaking, and such land may be purchased at any time within one year after the date of the order, or if it was appealed against after the date of the confirmation of the order.

(3) The owner of the land may within one month after notice to purchase the same is served upon him declare that he desires to retain the site of the obstructive building and undertake either to pull down or to permit the local authority to pull down the obstructive building, and in such case the owner shall retain the site and shall receive compensation from the local authority for the pulling down of the obstructive building.

(4) The amount of compensation to be paid on the purchase of any lands under this section or for the pulling down of an obstructive building shall in case of difference be settled by arbitration and shall be apportioned by the arbiter between any persons having an interest in the compensation in such manner as the arbiter may determine.

(5) Where the local authority is empowered to purchase land compulsorily, it shall not be competent for the owner of a house, manufactory or other building to insist on his entire holding being taken where part only is proposed to be taken as obstructive, and where such part proposed to be taken can, in the opinion of the arbiter to whom the question of disputed compensation is submitted, be severed from the remainder of the house, manufactory or other building without material detriment thereto, provided that compensation may be awarded in respect of the severance of the part so proposed to be taken in addition to the value of that part.

(6) Where in the opinion of the arbiter the demolition of an obstructive building adds to the value of such other buildings as are mentioned in subsection (1) of the last foregoing section, the arbiter shall apportion so much of the compensation to be paid for the demolition of the obstructive building as may be equal to the increase in value of the other buildings amongst such other buildings respectively, and the local authority shall be entitled to recover in a summary manner the amount apportioned to any such building in respect of its increase in value by reason of the demolition of the obstructive building from the owner or occupier thereof according to their respective interests in such increase in value.

(7) Where the amount to be paid for compensation for the purchase of any land under this section or for the demolition of an obstructive building has been settled otherwise than by arbitration, the power of apportioning the compensation under subsection (4) of this section or of apportioning any part of the compensation amongst other buildings under subsection (6) of this section, may be exercised by an arbiter appointed on the application of the local authority by the Board for this special purpose:

Provided that, if the owner or occupier of any such other building feels aggrieved by the decision of such arbiter as aforesaid, by whom the apportionment is made as to the amount apportioned to the building, the matter shall, on application for the purpose being made by such owner or occupier, be settled by the sheriff in manner provided by the Lands Clauses Acts in cases where the compensation claimed in respect of land does not exceed fifty pounds.

Provisions as to arbitration.

16.—(1) In all cases in which the amount of any compensation is, in pursuance of this Part of this Act, to be settled by arbitration, the compensation shall be assessed in accordance with the rules set out in Parts II. and III., of the First Schedule to this Act, so far as applicable to the case.

(2) On payment or tender to the person entitled to receive the same of the amount of compensation agreed or awarded to be paid in respect of any building, or on

payment thereof in manner prescribed by the Lands Clauses Acts, the owner shall, when required by the local authority, convey his interest in the building to them, or as they may direct; and in default thereof, or if the owner fails to adduce a good title to such building to the satisfaction of the local authority, it shall be lawful for the local authority, if they think fit, to expede an instrument under the hands of a notary public in such manner and with such consequences as are mentioned in the Lands Clauses Acts.

Provisions as to site after obstructive building demolished.

17.—(1) Where the owner retains the site or any part thereof, no house or other building or erection which will be dangerous or injurious to health, or which will be an obstructive building within the meaning of this Part of this Act, shall be erected upon the site or any part thereof; and if any house, building or erection is erected on the site contrary to the provisions of this Part of this Act, the local authority may at any time order the owner to abate or alter the said house, building or erection; and in the event of non-compliance with such order, may abate or alter the same, and the expenses of such abatement or alteration shall be recoverable from the owner in a summary manner:

Provided that any person aggrieved by such an order may appeal to the sheriff on giving notice of appeal within one month after notice of the said order has been served on him.

(2) Where the land on which the obstructive building is erected is purchased by the local authority, they shall pull down the obstructive building, or such part thereof as may be obstructive within the meaning of this Part of this Act, and keep as an open space, the whole site, or such part thereof, as may be required to be kept open for the purpose of remedying the nuisance or other evils caused by the obstructive building, and may, with the assent of the Board, and upon such terms as the Board may think expedient, sell such portion of the site as is not required for the purpose of carrying this Part of this Act into effect.

(3) A local authority may, where they so think fit, dedicate any land acquired by them under the provisions of this Part of this Act relating to obstructive buildings as a highway or other public place.

Enforcement of Provisions of Part I.

Procedure to enforce exercise of powers.

18.—(1) Where a complaint is made to the Board—

(*a*) as respects the district of a local authority not being a town council, by the county council, or by the parish council or landward committee of any parish comprised in the district, or by any four or more local government electors in the district; or

(*b*) as respects any other district by any four or more local government electors in the district;

that the local authority have failed to exercise their powers under this Part of this Act, in cases where those powers ought to have been exercised, the Board may cause a public local inquiry to be held.

(2) If, after holding such an inquiry, the Board are satisfied that there has been such a failure on the part of the local authority, it shall be lawful for the Board, with the approval of the Lord Advocate, to apply by summary petition to either Division of the Court of Session, or during vacation or recess to the Lord Ordinary on the Bills, which Division or Lord Ordinary are hereby authorised and directed to do therein, and to dispose of the expenses of the proceedings as to the said Division or Lord Ordinary shall appear to be just.

(3) Where it appears to the Board that a local authority have failed to make, or, if made, to give effect to any order as respects an obstructive building under this Part of this Act, or have failed to cause to be made the inspection of their district required by this Part of this Act, it shall be lawful for the Board to apply by summary petition to either Division of the Court of Session, or during vacation or recess to the Lord Ordinary on the Bills, which Division or Lord Ordinary are hereby authorised and directed as in the last foregoing subsection.

Procedure if local authority neglect duty.

19. Section one hundred and forty-six of the Public Health (Scotland) Act, 1897 (prescribing the procedure if a local authority neglect their duty), shall have effect as if the duties imposed upon a local authority by sections five, eight, ten and twelve of this Act were duties imposed by that Act.

Supplemental.

Provision of waterclosets or earth-closets in districts other than burghs.

20.—(1) Without prejudice to the provisions of the Public Health (Scotland) Act, 1897, relating to sewers and drains, the local authority of every district other than a burgh, shall require the owner of every occupied dwelling-house or part of a dwelling-house occupied by a separate family within their district to provide for each such house or part of a house a sufficient watercloset wherever it is reasonably practicable so to do, and, where that is not so practicable, a sufficient earthcloset; and if the owner fails to carry out such requirement within three months after intimation thereof, the local authority themselves may execute the necessary work, and the expenses incurred by them in so doing may be recovered by them from the owner in a summary manner.

(2) Any question which may arise under this section as to what is reasonably practicable shall be determined summarily by the sheriff who shall have regard to all the circumstances of the case, including the expense involved, and his decision shall be final.

(3) In this section "owner" has the same meaning as in the Public Health (Scotland) Act, 1897.

Grant of charging order in favour of owner on completion of works.

21.—(1) Where any owner has completed in respect of any dwelling-house any works required to be executed by an order of a local authority under this Part of this Act, he may apply to the local authority for a charging order and shall produce to the local authority the certificate of their surveyor or engineer that the works have been executed to his satisfaction, and also the accounts of and vouchers for the costs, charges and expenses of the works, and the local authority, when satisfied that the owner has duly executed such works and of the amount of such costs, charges and expenses, and of the expenses of obtaining the charging order which have been properly incurred, shall make an order (in this Part of this Act referred to as a "charging order") providing and declaring that the house is thereby charged and burdened with an annuity to repay the amount:

Provided that any person aggrieved by such an order may appeal to the sheriff on giving notice of

appeal within one month after notice of the said order has been served on him.

(2) The annuity charged shall be a sum of six pounds for every one hundred pounds of the said amount and so in proportion for any less sum, and shall commence from the date of the order, and be payable for a term of thirty years to the owner named in such order, his executors or assignees.

Provisions as to charging orders.

22.—(1) A charging order shall be in such form as the Board may prescribe, and shall be recorded in the appropriate register of sasines.

(2) Every annuity constituted a charge by a charging order, duly recorded in the appropriate register of sasines, shall be a charge on the premises specified in the order having priority over all existing and future estates, interests and incumbrances, with the exception of—

(*a*) feuduties, casualties, and teinds; and

(*b*) any charges on the premises created or arising under any provision of the Public Health (Scotland) Act, 1897, or any Act amending the same, or under any provision in any local Act authorising a charge for recovery of expenses incurred by a local authority; and

(*c*) any charge created under any Act authorising advances of public money:

and where more annuities than one are charged under this Part of this Act on any premises such annuities shall, as between themselves, take order and preference according to the respective dates of the charging orders being recorded in the appropriate register of sasines.

(3) A charging order, duly recorded in the appropriate register of sasines, shall be conclusive evidence that all notices, acts and proceedings by this Part of this Act directed with reference to or consequent on the obtaining of such an order, or the making of such a charge, have been duly served, done and taken, and that the charge has been duly created, and that it is a valid charge on the premises declared to be subject thereto.

(4) Every annuity charged by any such charging order may be recovered by the person for the time being entitled to it by the same means and in the like manner in all respects as if it were a rentcharge secured upon the premises by absolute order made under and in terms of the Improvement of Land Act, 1864. 27 & 28 Vict. c. 114.

(5) A charging order and all sums payable thereunder may be from time to time transferred in like manner as a bond and disposition in security or rentcharge may be transferred.

(6) Any owner of or other person interested in premises on which an annuity has been charged by any such charging order shall at any time be at liberty to redeem the annuity on payment to the person entitled to the annuity of such sum as may be agreed upon or in default of agreement determined by the Board.

Provision in favour of superior of lands.

23.—(1) The superior of any lands and heritages may give notice of his right of superiority to the local authority, and thereupon the local authority shall give the superior notice of any proceedings taken by them in pursuance of this Part of this Act in relation to such lands and heritages.

(2) If it appears to the sheriff, on the application of the superior, that default is being made in the execution of any works required to be executed on such lands and heritages in respect of which a closing order has been made, or in the demolition of a building on such lands and heritages, or in claiming to retain any site, in pursuance of this Part of this Act, and that the interests of the applicant will be prejudiced by such default, and that it is just to make the order, the sheriff may make an order empowering the applicant forthwith to enter on the lands and heritages, and within the time fixed by the order to execute the said works, or to demolish the building, or to claim to retain the site, as the case may be.

(3) The sheriff may in any case, by order, enlarge the time within which a claim may be made to retain the site of a building.

(4) Before an order is made under this section notice of the application shall be given to the local authority.

Extension of power of making byelaws respecting houses divided into separate dwellings.

24.—(1) The power of making and enforcing byelaws under section seventy-two of the Public Health (Scotland) Act, 1897, with respect to houses or parts of houses which are let in lodgings or occupied by members of more than one family, shall, in the case of houses intended for the working classes, extend to the making and enforcing of byelaws imposing any duty (being a duty which may be imposed by the byelaws and which involves the execution of work) upon the owner within the meaning of the said Act of the said house, in addition to or in substitution for any other person having an interest in the premises, and prescribing the circumstances and conditions in and subject to which any such duty is to be discharged.

(2) For the purpose of discharging any duty so imposed, the owner or other person may at all reasonable times enter upon any part of the premises, and section one hundred and five of this Act shall apply as if for the reference to the provisions of this Part of this Act there were substituted a reference to the provisions of such byelaws, and as if the person on whom such duty is imposed were the owner, and any inmate of the premises were the occupier of a dwelling-house.

(3) Where an owner or other person has failed to execute any work which he has been required to execute under the byelaws, the local authority may, after giving to him not less than twenty-one days' notice in writing, themselves execute the works and recover the costs and expenses, and for that purpose the provisions of section three of this Act, with respect to the execution of works and the recovery of expenses by local authorities shall apply, with such modifications as may be necessary.

Saving for remedies of owner for breach of contract, &c.

25. Nothing in this Part of this Act shall prejudice or interfere with the right or remedies of any owner for the breach, non-observance or non-performance of any contract or obligation entered into by a tenant or lessee in reference to any dwelling-house in respect of which an order is made by a local authority under this Part of this Act; and if any owner is obliged to take possession of any house in order to comply with any such order, the taking possession shall not affect his right to avail himself of any such breach, non-observance or non-performance that may have occurred prior to his so taking possession.

PART II.

IMPROVEMENT AND RECONSTRUCTION SCHEMES.

Improvement Schemes.

Duty of local authority to make scheme for improvement of unhealthy area.

26.—(1) Where an official representation is made to a local authority as respects any area in the district of the local authority either—

(*a*) that any houses, courts, or alleys within the area are unfit for human habitation, or

(*b*) that the narrowness, closeness, and bad arrangement, or the bad condition of the streets and houses or groups of houses within the area, or the want of light, air, ventilation, or proper conveniences, or any other sanitary defects, or one or more of such causes, are dangerous or injurious to the health of the inhabitants either of the buildings in the area or of the neighbouring buildings;

and that the most satisfactory method of dealing with the evils connected with such houses, courts, or alleys, and the sanitary defects in the area, is a scheme (hereinafter referred to as " an improvement scheme ") for the re-arrangement and reconstruction of the streets and houses within the area, or of some of such streets or houses, the local authority shall take such representation into their consideration, and if satisfied of the truth thereof, and of the sufficiency of their resources, shall pass a resolution to the effect that the area is an unhealthy area and that an improvement scheme ought to be made in respect of the area, and after passing such resolution they shall forthwith proceed to make a scheme for the improvement of the area.

(2) Any number of such areas may be included in one improvement scheme.

(3) Save as hereinafter provided, the provisions of this Part of this Act relating to improvement schemes shall not apply to a district other than a burgh :

Provided that it shall be lawful for the local authority of any district other than a burgh to apply to the Board for an order declaring that the said provisions shall apply to their district, and the Board, if they

are satisfied, after such inquiry (if any) as they may think fit, that the conditions of the whole or any part of the district approximate as regards housing to those of a burgh, and are such that it is desirable that the said provisions should apply to the district, may make an order accordingly, and thereupon the said provisions shall apply to the district.

Official representations.

27.—(1) An official representation for the purposes of the last foregoing section shall mean a representation made to the local authority by the medical officer of health of that local authority.

(2) A medical officer of health shall make such representation whenever he sees cause to make the same; and if any two or more justices of the peace acting within the district, or any four or more local government electors in the district complain to him of the unhealthiness of any area within such district, it shall be the duty of the medical officer forthwith to inspect the area and to make a report stating the facts of the case, and whether in his opinion the said area or any part thereof is or is not an unhealthy area, and if he considers the case one proper for making an official representation he shall make such a representation.

Reconstruction Scheme.

Duty of local authority to make reconstruction schemes.

28. In any of the following cases—

(*a*) where an order for the demolition of a building has been made in pursuance of Part I. of this Act, and it appears to the local authority that it would be beneficial to the health of the inhabitants of the neighbouring houses if the area of which such building forms part were used for all or any of the following purposes,—

(i) dedicated as a highway or open space, or

(ii) appropriated, sold, or let for the erection of dwelling-houses for the working classes, or

(iii) exchanged with other neighbouring land which is more suitable for the erection

of such houses, and which on exchange will be appropriated, sold, or let for such erection; or

(*b*) where it appears to the local authority that the closeness, narrowness, and bad arrangement or bad condition of any buildings, or the want of light, air, ventilation, or proper conveniences, or any other sanitary defect in any buildings is dangerous or prejudicial to the health of the inhabitants either of the said buildings or of the neighbouring buildings, and that the most satisfactory method of dealing with the said evils is by the demolition or the reconstruction or rearrangement of the said buildings or of some of them, and that the area comprising those buildings and the yards, outhouses, and pertinents thereof, and the site thereof, is too small to be dealt with by improvement scheme,

the local authority shall pass a resolution to the above effect and direct a scheme (hereinafter referred to as "a reconstruction scheme") to be prepared for the improvement of the said area.

Provisions as to Improvement and Reconstruction Schemes.

Requisites for improvement and reconstruction schemes.

29.—(1) An improvement or reconstruction scheme of a local authority shall be accompanied by maps, particulars, and estimates, and

(*a*) may exclude any part of the area in respect of which the resolution was passed, or include any neighbouring lands, if the local authority are of opinion that such exclusion is expedient or inclusion is necessary for making their scheme efficient; and

(*b*) may provide for widening any existing approaches to the unhealthy area or otherwise for opening out the same for the purposes of ventilation or health; and

(*c*) shall provide for proper sanitary arrangements; and

(*d*) may provide for any other matter (including the closing and diversion of highways) for

which it seems expedient to make provision with a view to the improvement of the area or the general efficiency of the scheme.

(2) The scheme shall distinguish the lands proposed to be taken compulsorily.

(3) The scheme may also provide for the scheme or any part thereof being carried out and effected under the superintendence and control of the local authority by any person having such interest in any property comprised in the scheme as may be sufficient to enable him to carry out and effect the same upon such terms and conditions to be embodied in the scheme as may be agreed upon between the local authority and such person.

(4) Where by or in consequence of an improvement or reconstruction scheme persons of the working classes in the area affected by the scheme will be displaced, the scheme shall, if the Board so require (but it shall not otherwise be obligatory on the local authority so to frame their scheme), provide for the accommodation of such number of those persons so displaced in suitable dwellings to be erected in such place or places either within or without the limits of the same area as the Board, on a report made by the officer conducting the local inquiry hereinafter mentioned, may require.

(5) A local authority may, for the purpose of providing such accommodation, appropriate any lands for the time being belonging to them which are suitable for the purpose, or may purchase by agreement any such further lands as may be convenient.

Publication of notices, &c.

30. As soon as an improvement or reconstruction scheme has been prepared the local authority shall forthwith—

(*a*) publish in a newspaper circulating within the district of the local authority, an advertisement stating the fact of such a scheme having been made, the limits of the area comprised therein, and naming a place within that area or in the vicinity thereof where a copy of the scheme may be seen at all reasonable hours; and

(*b*) serve a notice on every owner or reputed owner, lessee or reputed lessee, and occupier (except tenants for a month or a period less than a month) of any lands proposed to be taken compulsorily, so far as such persons can reasonably be ascertained, stating that such lands are proposed to be taken compulsorily for the purpose of such a scheme, and in the case of any owner or reputed owner, lessee or reputed lessee, requiring an answer stating whether the person so served dissents or not in respect of taking such lands.

Confirmation of improvement and reconstruction schemes.

31.—(1) Upon compliance with the foregoing provisions with respect to the publication of an advertisement and the service of notices, the local authority shall present a petition to the Board praying that an order may be made confirming the scheme.

(2) The petition shall be accompanied by a copy of the scheme and shall state the names of any owners or reputed owners, lessees or reputed lessees, who have dissented in respect of the taking of their lands, and shall be supported by such evidence as the Board may from time to time require.

(3) The Board, after considering the petition, may cause a local inquiry to be held, and, if satisfied on the report thereon that the circumstances are such as to justify the making of the scheme and that the carrying into effect of the scheme either absolutely, or subject to conditions or modifications, would be beneficial to the health of the inhabitants of the area in question, or of the neighbouring dwelling-houses, may by order confirm the scheme with or without such conditions or modifications, so, however, that no addition shall be made to the lands proposed in the scheme to be taken compulsorily.

(4) The order may incorporate the provisions of the Lands Clauses Acts, and for the purpose of those provisions this Act shall be deemed to be the special Act, and the local authority to be the promoters of the undertaking, and the land comprised in the area shall be acquired within three years after the date of the making of the order:

Provided that the amount of compensation shall, in case of difference, be settled by arbitration as hereinafter provided, and that the Lands Clauses Acts as so incorporated shall have effect subject to the provision of the Second Schedule to this Act.

(5) The order of the Board when made shall have effect as if enacted in this Act.

(6) It shall be the duty of a local authority to serve a notice of any order so made, in the manner in which and upon the persons upon whom notices in respect of lands proposed to be taken compulsorily are required by this Part of this Act to be served.

Provisions as to expenses.

32.—(1) The Board may make such order as they think fit in favour of any person whose lands were proposed by the scheme to be taken compulsorily for the allowance of the reasonable costs, charges and expenses properly incurred by him in opposing such scheme.

(2) All costs, charges and expenses incurred by the Board in relation to any order under the last foregoing section, to such amount as the Board think proper to direct, and all costs, charges and expenses of any person to such amount as may be allowed to him by the Board in pursuance of the aforesaid power, shall be deemed to be an expense incurred by the local authority under this Part of this Act, and shall be paid to the Board and to such person respectively in such manner and at such times and either in one sum or by instalments as the Board may order, with power for the Board to direct interest to be paid at such rate not exceeding five pounds per centum per annum as the Board may determine, upon any sum for the time being due in respect of such costs, charges and expenses as aforesaid.

(3) Where any such order with respect to costs, charges, and expenses is made by the Board in pursuance of this section, the Court of Session may, on the application of the Lord Advocate, on behalf of the Board, or on the application of any person interested, interpose their authority to any such order and grant decree conform thereto upon which execution and diligence may proceed in common form.

Execution of Improvement and Reconstruction Schemes.

Duty of local authority to carry scheme when confirmed into execution.

33.—(1) When an order confirming any improvement or reconstruction scheme of a local authority has been made by the Board, it shall be the duty of the local authority to take steps for purchasing the land required for the scheme, and otherwise for carrying the scheme into execution as soon as practicable:

Provided that the local authority shall not be required to acquire any leasehold interest in any property comprised in a scheme which can be allowed to expire without unduly delaying the execution of the scheme.

(2) The local authority may sell, feu or let all or any part of the area comprised in the scheme to any purchasers, feuars or lessees for the purpose and under the condition that such purchasers, feuars or lessees will, as respects the land so purchased by or feued or leased to them, carry the scheme into execution; and in particular they may insert in any conveyance, feuright or lease of any part of the area provisions—

(*a*) binding the purchaser, feuar or tenant to build thereon as in the conveyance, feuright or lease provided, and to maintain and repair the premises thereon; and

(*b*) prohibiting the division of such premises, and any addition to or alteration of the character of such premises, without the consent of the local authority; and

(*c*) for the revesting of the land in the local authority, or their re-entry thereon, on breach of any provision in the conveyance, feuright or lease.

(3) The local authority may also make arrangements with any body of trustees, society, or person, to carry the whole or any part of the scheme into effect upon such terms as the local authority may think expedient.

(4) The local authority shall not themselves, without the express approval of the Board, undertake the rebuilding of any premises or the execution of any part of the scheme, except that they may take down any or all of

the premises upon the area, and clear the whole or any part thereof, and may lay out, form, pave, sewer, and complete all such streets upon the land purchased by them as they may think fit, and all streets so laid out and completed shall thenceforth be public streets, repairable by the same authority as other streets in the district.

(5) The local authority shall in any conveyance, feuright or lease of any part of the area which may be appropriated by the scheme for the erection of dwelling-houses for the working classes, impose suitable conditions and restrictions as to the elevation, size, and design of the houses, and the extent of the accommodation to be afforded thereby, and shall make due provision for the maintenance of proper sanitary arrangements.

(6) The local authority may, where they think it expedient so to do, without themselves acquiring the land, or after or subject to their acquiring any part thereof, contract with any person having such right or interest in any land comprised in the scheme as may be sufficient to enable him to do so for the carrying of the scheme into effect by him in respect of such land.

(7) Where any premises or any part of any premises purchased by the local authority in pursuance of a scheme are not closed by a closing order, and are occupied by any tenant whose contract of tenancy is for less than a year, the local authority, if they require him to give up possession of such premises or part for the purpose of pulling down the premises, may make to the said tenant a reasonable allowance on account of his expenses in removing.

Completion of scheme on failure of local authority.

34.—(1) If within five years after the removal of any buildings on the land set aside by any improvement or reconstruction scheme confirmed under this Part of this Act as sites for dwelling-houses for the working classes, the local authority have failed to sell, feu or let the land for the purposes prescribed by the scheme, or have failed to make arrangements for the erection of such houses, the Board may order the land to be sold or feued.

(2) The order shall require the land to be sold or feued by public auction or public tender, with full

power to fix a reserve price or feuduty, subject to the conditions imposed by the scheme and to any modifications thereof which may be made in pursuance of this Part of this Act, and to a special condition on the part of the purchaser or feuar to erect upon the land houses for the working classes, in accordance with plans to be approved by the local authority, and subject to such other reservations and regulations as the Board may deem necessary.

Power of Board to modify confirmed scheme.

35. The Board, on the application of the local authority, and on its being proved to their satisfaction that an improvement can be made in the details of any improvement or reconstruction scheme confirmed under this Part of this Act, may permit the local authority to modify any part of the scheme either by the abandonment of any part thereof which it may appear inexpedient to carry into execution or by amending or adding to the scheme in matters of detail in such manner as appears to the Board expedient, but any part of the scheme respecting the provision of dwelling-houses for the working classes when so modified, shall be such as might have been inserted in the original scheme.

Extinction of rights of way and other servitudes.

36. Upon the purchase by the local authority of any lands required for the purpose of carrying into effect any improvement or reconstruction scheme under this Part of this Act, all rights of way, rights of laying down or of continuing any pipes, sewers, or drains on, through, or under such lands, or part thereof, and all other rights or servitudes in or relating to such lands, or any part thereof, shall, save as hereinafter provided, be extinguished, and all the soil of such ways, and the property in the pipes, sewers, or drains, shall vest in the local authority, subject to this provision, that compensation shall be paid by the local authority to any persons or bodies of persons proved to have sustained loss by this section, and such compensation shall be determined under and in accordance with the Acquisition of Land (Assessment of Compensation) Act, 1919: 9 & 10 Geo. 5. c. 57.

Provided that any such scheme may, with the consent of the person or body of persons entitled to any such right or servitude provide for any exceptions, restrictions, or modifications in the application of this

section to that right or servitude, and this section shall take effect subject to any such exceptions, restrictions, or modifications.

Provisions as to Compensation.

Provisions as to assessment of compensation.

37.—(1) Where land included in any improvement or reconstruction scheme made under this Part of this Act, or the corresponding provision of any Act repealed by this Act (other than land included in such a scheme only for the purpose of making the scheme efficient and not on account of the sanitary condition of the premises thereon or of those premises being dangerous or prejudicial to health) is acquired compulsorily, the compensation to be paid for the land, including any premises thereon which are specified in the scheme as being in an insanitary condition or dangerous or prejudicial to health, shall be the value at the time when the valuation is made of the land as a site cleared of buildings and available for development in accordance with the building regulations for the time being in force in the district:

Provided that, if in the opinion of the Board it is necessary that provision should be made by the scheme for the rehousing of persons of the working classes on the land or part thereof when cleared, or that the land, or a part thereof, when cleared should be laid out as an open space, the compensation payable to all persons interested in any land included in the scheme (other than as aforesaid), including any premises thereon which are specified in the scheme as being in an insanitary condition or dangerous or prejudicial to health, for their respective interests in such land or premises, shall be reduced by an amount ascertained as follows:—

(*a*) the value of the whole of the land included in the scheme shall first be ascertained on the basis of its value as a cleared site available for development in accordance with the building regulations in force in the district;

(*b*) the value of the whole of the said land shall next be ascertained on the basis of its value as a cleared site subject to the requirements of

the scheme as to the provision to be made for the rehousing of persons of the working classes or the laying out of open spaces on the land or any part thereof;

(*c*) the difference between the amounts ascertained under paragraphs (*a*) and (*b*) shall then be computed;

(*d*) the amount by which the compensation payable for the respective interests in the land or premises to which the foregoing provisions of this section apply, as ascertained in accordance with the principle laid down in those provisions, is to be reduced, shall be a fraction thereof equal to the amount arrived at under paragraph (*c*) when divided by the amount arrived at under paragraph (*a*).

(2) Subject as aforesaid the compensation to be paid for such land or premises shall be assessed in accordance with the Acquisition of Land (Assessment of Compensation) Act, 1919.

(3) In the case of land and premises included in an improvement or reconstruction scheme only for the purpose of making the scheme efficient, and not on account of the sanitary condition of the premises thereon, or of those premises being dangerous or prejudicial to health, the compensation to be paid shall be assessed in accordance with the rules contained in Part I., of the First Schedule to this Act.

Enforcement of Provisions of Part II.

Inquiry by Board on default of medical officer in certain cases.

38.—(1) Where in any district complaint has been made to a medical officer of health of the unhealthiness of any area within that district by any person or persons competent under the foregoing provisions of this Part of this Act to make such a complaint and the medical officer of health has failed to inspect the area, or to make an official representation with respect thereto, or has made a report to the effect that in his opinion the area is not an unhealthy area, the complainer or complainers, as the case may be, or any four or more

local government electors in the district may apply to the Board and the Board may appoint any inspector or officer of the Board, or other person employed by them, to inspect the area, and to make representation to the Board stating the facts of the case, and whether, in his opinion, the area or any part thereof is or is not an unhealthy area.

The representation so made shall be transmitted by the Board to the local authority, and if it states that the area is an unhealthy area the local authority shall proceed therein in the same manner as if it were an official representation made to that local authority.

(2) The Board shall make such order as to the expenses of the inquiry as they may think just, with power to require the whole or any part of such expenses to be paid by the appellants where the person appointed to make the inspection is of opinion that the area is not an unhealthy area, and to declare the whole or any part of such expenses to be payable by the local authority where he is of opinion that the area or any part thereof is an unhealthy area.

(3) Where any order is made by the Board in pursuance of this section, the Court of Session on the application of the Lord Advocate on behalf of the Board, or on the application of any person interested, may interpose their authority and grant decree conform thereto, upon which execution and diligence may proceed in common form.

Inquiry by Board on refusal of local authority to make an improvement scheme.

39. Where an official representation is made to the local authority with a view to their passing a resolution in favour of an improvement scheme, and they fail to pass any resolution in relation to such representation, or pass a resolution to the effect that they will not proceed with such scheme, the local authority shall, as soon as possible, send a copy of the official representation, accompanied by their reasons for not acting upon it, to the Board, and, upon the receipt thereof, the Board may direct a local inquiry to be held, and a report to be made to them with respect to the correctness of the official representation made to the local authority, and any matters connected therewith on which the Board may desire to be informed.

Procedure to enforce exercise of powers, &c.

40.—(1) Where a complaint is made to the Board—

(*a*) as respects the district of a local authority not being a town council, by the county council, or by the parish council or landward committee of any parish comprised in the district, or by any four or more local government electors in the district; or

(*b*) as respects any other district by any four or more local government electors in the district;

that the local authority have failed to exercise their powers under this Part of this Act in cases where those powers ought to have been exercised, the Board may cause a public local inquiry to be held.

(2) After holding such an inquiry, the Board are satisfied that there has been such a failure on the part of the local authority, it shall be lawful for the Board, with the approval of the Lord Advocate, to apply by summary petition to either Division of the Court of Session, or during vacation or recess to the Lord Ordinary on the Bills, which Division or Lord Ordinary are hereby authorised and directed to do therein and to dispose of the expenses of the proceedings as to the said Division or Lord Ordinary shall appear to be just.

(3) Where it appears to the Board that a local authority have failed to perform their duty under this Act of carrying out any scheme made under this Part of this Act, it shall be lawful for the Board to apply by summary petition to either Division of the Court of Session, or during vacation or recess to the Lord Ordinary on the Bills, which Division or Lord Ordinary are hereby authorised and directed as in the last foregoing subsection.

Power of Board to order schemes to be made.

41.—(1) Without prejudice to any other powers for enforcing the provisions of this Part of this Act, where the Board are satisfied that any area within the district of a local authority is an area in respect of which the local authority ought to exercise their powers under this Part of this Act, the Board may by order require the local authority to make either an improvement or a re-

construction scheme under this Part of this Act for the improvement of that area and to do all things necessary under this Act for carrying into execution the scheme so made.

(2) If the local authority fail within such time as may be prescribed by the order to make an improvement or reconstruction scheme to the satisfaction of the Board, and to carry the scheme into execution, the Board may themselves make and take such steps as may be necessary to carry out a scheme.

(3) Where the Board themselves make and carry out a scheme, they shall, for that purpose, have all the powers of a local authority under this Act, and this Act shall, with the necessary modifications and adaptations, apply accordingly; and any expenses incurred by the Board in the exercise of such powers as aforesaid shall, in the first instance, be paid out of moneys provided by Parliament, but the amount certified by the Board to have been so expended, and to be properly payable by a local authority, shall, on demand, be paid to the Board by the local authority and shall be recoverable as a debt due to the Crown.

Supplemental.

Power to acquire in advance lands in areas proposed for inclusion in schemes.

42. Where a local authority have passed a resolution that an improvement or reconstruction scheme ought to be made in respect of any area, the local authority may, with the consent of and subject to any conditions imposed by the Board, acquire by agreement any lands included within the area, notwithstanding that the scheme may not at the time of acquisition have been made by the local authority or confirmed by the Board.

PART III.

PROVISION OF HOUSES FOR THE WORKING CLASSES.

General Powers of Local Authorities.

Provision of houses for working classes.

43.—(1) A local authority may provide housing accommodation for the working classes—

(*a*) by the erection of dwelling-houses on any land acquired or appropriated by them;

(*b*) by the conversion of any buildings into dwelling-houses for the working classes;

(*c*) by acquiring houses suitable for the purpose;

(*d*) by altering, enlarging, repairing or improving any houses or buildings on land acquired as a site for the erection of dwelling-houses for the working classes, or any other houses any right or interest wherein has been acquired by the local authority.

Except in the case of the local authority of a district other than a burgh, any such powers as aforesaid may, for supplying the needs of the district, be exercised outside the district of the local authority.

(2) The local authority may alter, enlarge, repair or improve any house so erected, converted or acquired, and may fit out, furnish and supply any such house with all requisite furniture, fittings and conveniences.

(3) For the purposes of this Part of this Act, the provision of housing accommodation includes the provision of lodging-houses, and separate houses or cottages containing one or several dwellings, and in the case of a cottage, a cottage with a garden of not more than one acre.

Purposes for which land may be acquired by a local authority.

44.—(1) A local authority shall have power under this Part of this Act—

(*a*) to acquire any land, including any houses or other buildings thereon, as a site for the erection of dwelling-houses for the working classes;

(*b*) to acquire any right or interest in any houses which may be made suitable as dwelling-houses for the working classes, together with any lands occupied, or which may be occupied, with such houses;

(*c*) to acquire land for the purpose of—

(i) selling, feuing or leasing the land under the powers conferred by this Act, with a view to the erection thereon of dwelling-houses for the working classes, by persons other than the local authority;

(ii) selling, feuing or leasing, under the powers conferred by this Act, any part of the land acquired with a view to the use thereof for purposes which in the opinion of the local authority are necessary or desirable for or incidental to the development of the land as a building estate.

(2) Subject to the consent of the Board and to such conditions as the Board may prescribe, a local authority may, for the purposes of this Part of this Act, acquire by agreement (but not otherwise) or contract for a lease to the local authority of dwelling-houses suitable for the working classes, whether built at the date of the contract or intended to be built thereafter.

(3) A local authority may, with the consent of and subject to any conditions imposed by the Board, acquire land by agreement (but not otherwise) for the purposes of this Part of this Act, notwithstanding that the land is not immediately required for those purposes.

Powers of dealing with land acquired.

45.—(1) Where a local authority have acquired or appropriated any land for the purposes of this Part of this Act, then, without prejudice to any of their other powers under this Act, the local authority may—

(*a*) lay out and construct public streets or roads and open spaces on the land;

(*b*) with the consent of the Board, sell, feu or lease the land or part thereof to any person under the condition that that person will erect and maintain thereon such number of dwelling-houses suitable for the working classes as may be fixed by the local authority in accordance with plans approved by them, and when necessary will lay out and construct public streets or roads and open spaces on the land, or use the land for purposes which, in the opinion of the local authority, are necessary or desirable for or incidental to the development of the land as a building estate in accordance with plans approved by the local authority;

(*c*) with the consent of the Board, sell, feu or lease the land or excamb it for land better

adapted for those purposes, either with or without paying or receiving any money for equality of exchange;

(*d*) with the consent of the Board, sell, feu or lease any houses on the land or erected by them on the land, subject to such conditions, restrictions and stipulations as they may think fit to impose either in regard to the maintenance of the houses as dwelling-houses for the working classes or otherwise in regard to the use of the houses and upon any such sale they may agree to the price being paid by instalments or to payment of part of the price being secured by bond and disposition in security or otherwise upon the subjects sold.

(2) Where a local authority under this section sell, feu or lease land, the local authority may contribute or agree to contribute towards the expenses of the development of the land and the laying out and construction of streets or roads thereon, subject to the condition that the streets or roads are dedicated to the public use.

(3) Land sold, feued or leased under the provisions of this section shall be sold, feued or leased at the best price or for the best feuduty or rent that can reasonably be obtained, and any capital money received in respect of any transaction under this section shall be applied in or towards the purchase of other land for the purposes of this Part of this Act, or, with the consent of the Board, to any purpose, including the repayment of borrowed money, to which capital money may properly be applied.

Application of powers of local authority under 60 & 61 Vict. c. 38.

46. A local authority may for the purposes of this Part of this Act, exercise the same powers whether of contract or otherwise as in the execution of their duties under the Public Health (Scotland) Act, 1897.

Schemes for the provision of Houses for the Working Classes.

Duty of local authority to

47.—(1) It shall be the duty of every local authority to consider the needs of their district with respect to

prepare housing schemes.

the provision of housing accommodation for the working classes, and, as often as occasion arises, to prepare and submit to the Board a scheme for the exercise of their powers under this Part of this Act.

(2) A scheme under this section shall specify—

(*a*) the approximate number and the nature of the houses which, in the opinion of the local authority, are required adequately to supply the needs of their district;

(*b*) the approximate number and the nature of the houses to be provided by the local authority, and, wherever possible, the average number of houses per acre;

(*c*) the approximate extent of land to be acquired and the localities in which land is to be acquired;

(*d*) the time within which the scheme or any part thereof is to be carried into effect;

and the scheme may contain such incidental, consequential and supplemental provisions (including provisions as to the subsequent variation of the scheme) as may appear necessary or proper for the purpose of the scheme.

(3) The Board may approve any such scheme or any part thereof without modification or subject to such modifications as they think fit, and the scheme or part thereof when so approved shall be binding on the local authority; but if the Board consider the scheme inadequate they may refuse to approve the scheme and require the local authority to prepare and submit to them an adequate scheme within such time as they may fix, or they may approve the scheme or part thereof subject to the condition that the local authority prepare and submit to them a further scheme within such time as they may fix:

Provided that local authorities in preparing, and the Board in approving, any scheme shall take into account, and, so far as possible, preserve existing erections of architectural, historic or artistic interest, and shall have regard to the natural amenities of the locality.

(4) Before the Board finally approve a scheme, the local authority shall furnish to them estimates of the cost of the scheme and of the rents expected to be derived from the houses provided under the scheme.

(5) If the Board consider as respects any local authority that an occasion for the preparation of a new scheme has arisen, they shall give notice to that effect to the local authority, and thereupon such an occasion shall be deemed to have arisen.

(6) Where the local authorities concerned or the Board are of opinion that a scheme should be made affecting the districts of two or more local authorities, such a scheme shall be prepared by the local authorities jointly, and may provide for joint action being taken by those local authorities, and for the apportionment amongst the authorities of the expenses incurred in carrying the scheme into effect.

(7) Local authorities in preparing, and the Board in approving, schemes shall make inquiry respecting and take into account any proposals by other bodies or persons to provide housing accommodation within a reasonable time.

Duty of local authority to carry out approved schemes.

48. It shall be the duty of a local authority on which obligations are imposed by any such scheme to carry that scheme into execution within such time as may be specified in the scheme or within such further time as may be allowed by the Board.

Execution of works, &c., by local authority outside their own district.

49. Where any such scheme is being carried into effect by a local authority outside their own district, that authority shall, subject to the approval of the Board, have power to execute any works which are necessary for the purposes, or are incidental to the carrying out of the scheme, subject to entering into an agreement with the local authority of the district in which the scheme is being carried out as to the terms and conditions on which any such works are to be executed.

Acquisition and Appropriation of Land.

Power to acquire land by agreement.

50. Land for the purposes of this Part of this Act may be acquired by a local authority by agreement in like manner as if those purposes were purposes of the

Public Health (Scotland) Act, 1897, and section one hundred and forty-four of that Act, so far as relating to the purchase of land by agreement, shall apply accordingly.

Power to acquire land compulsorily.

51. A local authority may be authorised to purchase land compulsorily for the purposes of this Part of this Act by means of an order submitted to the Board and confirmed by the Board in accordance with the Third Schedule to this Act:

Provided that nothing in this Act shall authorise the compulsory acquisition for the purposes of this Part of this Act of any land which is the property of any local authority, or has been acquired by any corporation or company for the purposes of a railway, dock, canal, water or other public undertaking, or which at the date of the order forms part of any park, garden or pleasure ground, or is otherwise required for the amenity or convenience of any house.

Power to appropriate land.

52. A local authority may, with the consent of the Board, appropriate, for the purposes of this Part of this Act, any houses or land which may be for the time being vested in them, or at their disposal.

Power of trustees to sell land to local authority.

53. The trustees of any dwelling-houses for the working classes for the time being provided in any district by private subscriptions or otherwise may, with the consent of a majority of the committee or other persons by whom they were appointed trustees, sell, feu or lease the houses to the local authority of the district, or make over to them the management thereof.

Management of Houses provided by Local Authorities.

Management vested in local authority.

54.—(1) The general management, regulation and control of the dwelling-houses provided by a local authority under this Part of this Act, or any enactment repealed by this Act, shall be vested in and exercised by the local authority.

(2) The local authority may make such reasonable charges for the tenancy or occupation of the dwelling-houses so provided as they may by regulations determine.

Byelaws for regulation of houses.

55.—(1) The local authority may make byelaws for the management, use and regulation of dwelling-houses provided by them.

(2) The local authority shall, as respects lodging-houses provided by them (that is to say, houses not occupied as separate dwellings) by byelaws, make sufficient provision for the following purposes:—

(*a*) for securing that the lodging-houses shall be under the management and control of the officers, servants or others appointed or employed in that behalf by the local authority;

(*b*) for securing the due separation at night of men and boys above eight years old from women and girls;

(*c*) for preventing damage, disturbance, interruption and indecent and offensive language and behaviour and nuisances;

(*d*) for determining the duties of the officers, servants and others appointed by the local authority;

and a printed copy or sufficient abstract of the byelaws relating to lodging-houses shall be put up and at all times kept in every room therein.

(3) Any fine for the breach of any such byelaw shall be paid to the credit of the fund or rate out of which the expenses of this Part of this Act are defrayed.

Inspection of houses.

56. A dwelling-house provided in any district under this Part of this Act, or any enactment repealed by this Act, shall be at all times open to the inspection of the local authority of that district or of any officer from time to time authorised by the local authority.

Provision of Houses by Public Utility Societies and other Persons.

Power of promoting and assisting public utility societies.

57.—(1) A local authority or a county council may promote the formation or extension of, or subject to the provisions of this Act, assist a public utility society whose objects include the erection, improvement or management of dwelling-houses for the working classes.

(2) Any local authority or county council, with the consent of and subject to any regulations or conditions which may be made or imposed by the Board, may, for the assistance of such a society—

(*a*) make grants or loans to the society;

(*b*) subscribe for any share or loan capital of the society;

(*c*) guarantee or join in guaranteeing the payment of interest on money borrowed by the society, or of any share or loan capital issued by the society;

on such terms and conditions as to rate of interest and repayment or otherwise, and on such security as the local authority or county council think fit, and, notwithstanding the provisions of section four of the Industrial and Provident Societies Act, 1893, where a local authority or county council assist such a society under this subsection, the local authority or county council shall not be prevented from having or claiming an interest in the shares of the society exceeding two hundred pounds.

56 & 57 Vict. c. 39.

Powers to companies, &c., to provide houses for working classes.

58. Any railway company, or dock or harbour company or any other company, society, or association, established for trading or manufacturing purposes in the course of whose business or in the discharge of whose duties persons of the working class are employed, may and are hereby (notwithstanding any Act of Parliament, or charter or any rule of law to the contrary) authorised at any time to erect, either on their own land or on any other land (which they are hereby authorised to purchase or take on feu and hold for the purpose and to pay for out of any funds at their disposal) dwelling-houses for the accommodation of all or any of the persons of the working class employed by them.

Duty of Local Authorities to make Byelaws.

Byelaws as to houses for the working classes in burghs.

59. It shall be the duty of the local authority of every burgh to make, with respect to dwelling-houses used or intended to be used for occupation by the working classes, byelaws with respect to the following matters :—

(*a*) the maximum number of houses to be erected on a given extent of ground;

(*b*) the number of storeys in a tenement containing houses, and the arrangement of such tenements in blocks or otherwise;

(*c*) the subdivision of houses;

(*d*) the number of adult persons and children who may occupy a house, such number to be prescribed in accordance with a cubic space standard;

(*e*) the provision of a separate watercloset, bath, scullery, larder, adequate press accommodation and accommodation for the storage of coal for each house, and facilities for washing and drying clothes;

(*f*) the provision of open spaces about houses:

Provided that byelaws relating to paragraphs (*a*), (*b*) and (*f*) shall apply to new houses only, byelaws relating to paragraphs (*c*) and (*d*) shall apply to new houses and also to existing houses, and byelaws relating to paragraph (*e*) shall apply to new houses and also, so far as is reasonably practicable, to existing houses.

In this section the expression "existing house" means a house erected or in the course of erection at the time when such byelaws come into force, or a house the plans for the erection of which have been approved at that time.

Byelaws as to occupancy of houses for working classes in districts other than burghs.

60. The local authority of every district other than a burgh shall make byelaws regulating the occupancy of dwelling-houses used or intended to be used for occupation by the working classes, and prescribing, in accordance with a cubic space standard, the number of adult persons and children who may occupy such houses.

Enforcement of Provisions of Part III.

Procedure to enforce exercise of powers.

61.—(1) Where a complaint is made to the Board—

(*a*) as respects the district of a local authority not being a town council, by the county council, or by the parish council or landward committee of any parish comprised in the district, or by any four or more local government electors in the district; or

(*b*) as respects any other district by any four or more local government electors in the district;

that the local authority have failed to exercise their powers under this Part of this Act in cases where those powers ought to have been exercised, the Board may cause a public local inquiry to be held.

(2) If after holding such an inquiry, the Board are satisfied that there has been such a failure on the part of the local authority, it shall be lawful for the Board, with the approval of the Lord Advocate, to

apply by summary petition to either Division of the Court of Session, or during vacation or recess to the Lord Ordinary on the Bills, which Division or Lord Ordinary are hereby authorised and directed to do therein and to dispose of the expenses of the proceedings as to the said Division or Lord Ordinary shall appear to be just.

Power of Board to act in place of local authority.

62.—(1) Where the Board are of opinion that a local authority have failed, or, in cases where a joint scheme has been or, in the opinion of the Board, ought to be prepared, the local authorities concerned have failed, to fulfil their duty as to the preparation of schemes under this Part of this Act or their obligations under any such scheme, the Board may cause a public local inquiry to be held by a person appointed by the Board (not being a member of the Board or in the employment of the Board), and, if after the inquiry the Board are satisfied that there has been such a failure on the part of the local authority or authorities concerned, the Board may themselves prepare and carry into execution a scheme, or take such steps as may be necessary to carry into execution any scheme prepared by the local authority or by two or more local authorities jointly, and shall for that purpose have all the powers of a local authority under this Act, and this Act shall, with the necessary modifications and adaptations, apply accordingly.

(2) Any expenses incurred by the Board in the exercise of such powers as aforesaid shall, in the first instance, be paid out of moneys provided by Parliament, but the amount certified by the Board to have been so expended, and to be properly payable by a local authority, shall on demand be paid to the Board by the local authority and shall be recoverable as a debt due to the Crown.

Supplemental.

Sale of land for housing purposes by corporations.

63. Any body corporate holding land may sell, feu, exchange or lease the land for the purpose of the erection of dwelling-houses for the working classes at such price, or for such consideration or for such feuduty or rent as, having regard to the said purpose and to all the circumstances of the case, is the best that can reasonably be obtained, notwithstanding that a higher price, consideration or feuduty or rent might have been obtained if the land were sold, feued, exchanged or leased for another purpose.

Extension of 27 & 28 Vict. c. 114.

64. The improvements for the purposes of the Improvement of Land Act, 1864, as specified in section nine of that Act and as extended by subsequent enactments shall, in addition to cottages for labourers, farm servants and artizans whether employed on the land or not, include the provision of dwelling-houses available for the working classes either by means of building new buildings or by means of the reconstruction, enlargement or improvement of existing buildings, so as to make them available for the purpose if that provision of dwelling-houses is not injurious to the estate.

Power to water and gas companies to supply water and gas to houses.

65. Any commissioners of waterworks, trustees of waterworks, water companies, gas companies and other corporations, bodies and persons having the management of any waterworks, reservoirs, wells, springs or streams of water, and gasworks respectively, may, in their discretion, grant and furnish supplies of water or gas for dwelling-houses provided under this Part of this Act, either without charge or on such other favourable terms as they think fit.

Part IV.

Financial Provisions.

Expenses of Local Authorities, &c.

Expenses of local authority under Parts I., II. & III.

66.—(1) Subject to the provisions of this Act, all expenses incurred by a local authority in the execution of Parts I., II. and III. of this Act, shall be defrayed by them out of the public health general assessment, but such expenses shall not be reckoned in any calculation as to the statutory limit of that assessment.

(2) The Board may on the application of the local authority of a district other than a burgh declare that any expenses incurred by the local authority under Part III. of this Act are to be levied as general expenses charged on one or more specified parishes or special districts comprised in the district in such proportions as the local authority may determine, to the exclusion of other parts of the district:

Provided that the local authority shall give notice to the parish council of any parish proposed to be charged of any apportionment made by them under this

subsection, and the parish council, if aggrieved by the apportionment, may appeal to the Board by giving notice of appeal to the Board within twenty-one days after notice has been so given of the apportionment.

Expenses of county councils.

67. All expenses incurred by a county council under this Act (other than those of a county council when acting in their capacity of local authority under this Act), shall be defrayed out of the general purposes rate:

52 & 53 Vict. c. 50.

Provided that, notwithstanding anything contained in the Local Government (Scotland) Act, 1889, the ratepayers of a police burgh shall not be assessed by the county council for any such expenses.

Borrowing by Local Authorities, &c.

Power of local authorities to borrow for purposes of Act.

68.—(1) Subject to the provisions of this Act, a local authority may, with the consent of the Board, borrow—

(*a*) for the purposes of Part I. of this Act, so far as it relates to the execution of repairs and works by local authorities and to compensation payable for or in respect of obstructive buildings;

(*b*) for the purposes of Part II. and Part III. of this Act;

(*c*) for the purposes of making loans and advances or of fulfilling any guarantee given by the local authority under this Part of this Act.

(2) Money so borrowed by a local authority may be borrowed upon the security of the public health general assessment rate in the same manner, and subject to the same conditions as nearly as may be, as they may borrow for the provision of permanent hospitals under the Public Health (Scotland) Act, 1897:

Provided that the money so borrowed shall, notwithstanding the provisions of section one hundred and forty-one of the said Act, be wholly repaid within such period not exceeding eighty years from the date of the loan as the Board may determine.

(3) The provisions of section sixty-seven of the Local Government (Scotland) Act, 1889, so far as not inconsistent with this section, shall apply to any money

borrowed by a county council when acting in their capacity of local authority under this Act.

Power of County Councils to borrow, lend, &c.

69.—(1) A county council, in addition to any other statutory power to borrow, may borrow, subject to the provisions of section sixty-seven of the Local Government (Scotland) Act, 1889—

(*a*) for the purpose of making grants or loans to or subscribing for the capital of a public utility society under Part III. of this Act, and as respects any money so borrowed the maximum period for repayment shall be fifty years, and fifty years shall be substituted for thirty years in subsection (2) of the said section sixty-seven; and

(*b*) with the consent of the Board, for the purpose of making loans to any local authority within their area under this section; and

(*c*) with the consent of the Board, for the purpose of making advances or fulfilling any guarantee given by the county council under section seventy-five of this Act.

(2)—(*a*) Where money is borrowed by a county council for the purpose of the provision of dwelling-houses for persons in the employment of or paid by the county council or a district committee, or of acquiring land for such houses, or for any of the purposes of section seventy-five of this Act, the maximum period for repayment shall be eighty years, and as respects money so borrowed eighty years shall be substituted for thirty years in subsection (2) of the said section sixty-seven.

(*b*) Any loan made by the Public Works Loan Commissioners to a county council for the purpose of the provision of dwelling-houses for employees as aforesaid, or of acquiring land for such houses, or for any of the purposes of section seventy-five of this Act, shall be made on the same terms and conditions as a loan to a local authority for the purposes of this Act.

(3) A county council may lend to any local authority within their area any money which that local authority have power to borrow for the purposes of this Act subject to any conditions (including conditions with respect to the borrowing by a local

authority from the county council of the money so raised) which the Board may by general or special order impose.

Power to borrow in connection with schemes carried out by local authority outside their own district.

70.—(1) Where a housing scheme approved under Part III. of this Act is being carried into effect by a local authority outside their own district, that local authority shall, subject to the approval of the Board, have power to borrow money for the purpose of defraying any expenses (including, if the Treasury so approve, interest payable in respect of any period before the completion of the scheme or a period of five years from the date of borrowing, whichever period is the shorter, on money borrowed under this section) incurred by the local authority in connection with any works necessary for the purposes of or incidental to the carrying out of the scheme, and that on the security of such assessment, as the Board may designate for the purpose.

(2) The local authority of any district in which a scheme is being carried out as aforesaid by the local authority of another district shall have power, with the approval of the Board, to borrow money for the purposes of any agreement entered into by the local authority with that other local authority under Part III. of this Act, and that in the same manner as if such works as aforesaid had been executed by the local authority.

Power to issue local bonds.

71.—(1) Without prejudice to any other powers of borrowing, a local authority or a county council may, with the consent of the Board, borrow any sums which they have power to borrow for the purposes of this Act by the issue of bonds (in this Act referred to as "local bonds") in accordance with the provisions of this Act.

(2) The provisions set out in the Fourth Schedule to this Act shall have effect with respect to local bonds.

(3) Where, on an application made by two or more local authorities or county councils, the Board are satisfied that it is expedient that those authorities or councils should have power to make a joint issue of local bonds, the Board may by order make such provision as appears to them necessary for the purpose, and any such order shall provide for the securing of the bonds issued upon the joint rates, property and revenues of the authorities or councils.

The provisions of any such order shall have effect as if they were contained in an order made under subsection (3) of section sixty-four of the National Insurance Act, 1911. 1 & 2 Geo. 5. c. 55.

(4) Any local authority or county council by whom any local bonds have been issued may, without the consent of the Board, borrow for the purpose of redeeming those bonds.

Loans by Public Works Loan Commissioners.

Provision as to loans by Public Works Loan Commissioners to local authorities.

72.—(1) The Public Works Loan Commissioners may lend to any local authority or county council any money which that local authority or county council have power to borrow for the purposes of making advances or fulfilling guarantees under section seventy-five of this Act.

(2) Where a loan is made by the Public Works Loan Commissioners to a local authority for the purposes of this Act—

(*a*) the loan shall be made at the minimum rate allowed for the time being for loans out of the Local Loans Fund; and

(*b*) if the Board make a recommendation to that effect, the period for which the loan is made may exceed the period allowed under any enactment limiting the period for which loans may be made by the Commissioners, but the period shall not exceed the period recommended by the Board nor in any case exceed eighty years; and

(*c*) as between loans for different periods, the longer duration of the loan shall not be taken as a reason for fixing a higher rate of interest.

Loans to public utility societies, &c.

73.—(1) The Public Works Loan Commissioners may, subject as hereinafter provided, advance on loan to any such company, society, association, or person as is hereinafter mentioned, moneys for the purpose of constructing or improving, or facilitating or encouraging the construction or improvement of dwelling-houses for the working classes, and in the case of a public utility society, for the purchase of houses which may be made suitable as dwelling-houses for the working classes and for the purchase and development of land, and any such company,

society, association or person may borrow from the Public Works Loan Commissioners such money as may be required for the purposes aforesaid.

(2) The companies, societies, associations and persons to whom money may be so lent and who may so borrow are—

(*a*) any railway company or dock or harbour company or any public utility society or any other company, society or association established for the purpose of constructing or improving, or facilitating, or encouraging the construction or improvement of dwelling-houses for the working classes, or for trading or manufacturing purposes in the course of whose business or in the discharge of whose duties persons of the working classes are employed;

(*b*) any person entitled to any land in fee simple or to a lease of land for a term of years, whereof not less than fifty years shall for the time being remain unexpired.

(3) Any such advance may be made whether the company, society, association or person receiving the same has or has not power to borrow on bond and disposition in security or otherwise, independently of this Act, but nothing in this Act shall affect any regulation, statutory or otherwise, whereby any company may be restricted from borrowing until a definite portion of capital is subscribed for, taken or paid up.

(4) The following conditions shall apply in the case of any such advance:—

(*a*) The period for the repayment of the sums advanced shall not exceed forty years;

(*b*) No money shall be advanced upon the security of any land or houses solely, unless the estate or interest therein proposed to be burdened shall be either an estate in fee simple or a lease for a term of years, whereof not less than fifty years are unexpired at the date of the advance;

(*c*) The money advanced upon the security of any land or houses solely shall not exceed such proportion as is hereinafter authorised of

the value to be ascertained to the satisfaction of the Public Works Loan Commissioners, of the right or interest in such land or houses proposed to be burdened; but advances may be made by instalments from time to time as the building of the houses on the land burdened progresses, so that the total advances do not at any time exceed the amount aforesaid; and the heritable security may be accordingly granted to secure such advances so to be made from time to time:

Provided that, where a loan is made under this section to a public utility society for the purpose of carrying out a scheme for the provision of dwelling-houses for the working classes approved by the Board—

(i) The maximum period for the repayment of the loan shall be fifty instead of forty years;

(ii) Money may be lent on heritable security over a lease recorded under the Registration of Leases (Scotland) Act, 1857, whereof a period not less than ten years in excess of the period fixed for the repayment of the sums advanced remains unexpired at the date of the loan. 20 & 21 Vict. c. 26.

(5) The proportion of such value as aforesaid authorised—

(*a*) In the case of a company established for the purpose of constructing or improving or of facilitating or encouraging the construction or improvement of dwelling-houses for the working classes which does not trade for a profit or whose constitution forbids the issue of any share or loan capital with interest or dividend exceeding the rate for the time being prescribed by the Treasury, shall be three quarters;

(*b*) In the case of a public utility society shall be two-thirds;

(*c*) In any other case shall be one-half:

Provided that, where the advance to any such company exceeds one half of such value as aforesaid, or if the company is a public utility society exceeds two-thirds thereof, the Public Works Loan Commissioners shall

require, in addition to a heritable security over any land or dwelling-houses, a further security of such value as they may think fit.

(6) Any loan advanced by the Public Works Loan Commissioners in pursuance of this section or to borrowers other than local authorities for the provision of labourers' dwellings under the Public Works Loans Act, 1875, or any Act amending that Act, shall bear interest at such rate not less than three pounds two shillings and sixpence per annum as the Treasury may from time to time authorise as being in their opinion sufficient to enable such loan to be made without loss to the Exchequer.

38 & 39 Vict. c. 89.

(7) For the purpose of constructing or improving or facilitating or encouraging the construction or improvement of dwelling-houses for the working classes, every such company, society or association as aforesaid is hereby authorised to purchase, take on feu or otherwise, and hold, land, and if not already a body corporate shall, for the purpose of holding land acquired under this section or the corresponding provision of any Act repealed by this Act, and of suing and being sued in respect thereof, be nevertheless deemed a body corporate with perpetual succession.

(8) A public utility society shall have power, notwithstanding anything in its rules or constitution prohibiting the payment of any interest on loan capital at a rate exceeding six per centum per annum, to raise money on loan at a rate of interest not exceeding the rate of interest for the time being prescribed by the Treasury for the purposes of this Act with respect to public utility societies.

Loans by Local Authorities for provision of Houses.

Loans by local authorities for the improvement of housing accommodation.

74.—(1) Where the owner of a house or building applies to the local authority of the district in which the house or building is situated for assistance for the purpose of carrying out works for the reconstruction, enlargement, or improvement thereof, and the local authority are of opinion that after the works are carried out the house or building would be in all respects fit for habitation as a dwelling-house or dwelling-houses for the working classes, and that the circumstances of the district in regard to housing accommodation are such as to make it

desirable that the works should be carried out, the local authority may lend to the owner the whole or any part of such sum as may be necessary to defray the cost of the works and any costs, charges, or expenses incidental thereto:

Provided that the loan shall not exceed one half of the estimated value of the property to be burdened with the heritable security for the loan, unless some additional or collateral security is given sufficient to secure the excess.

(2) Before the works are commenced full particulars of the works and, where required by the local authority, plans and specifications thereof shall be submitted to the local authority for their approval, and before any loan is made the local authority shall satisfy themselves that the works in respect of which the loan is to be made have been carried out in a satisfactory and efficient manner.

(3) For the purpose of this section "owner" includes joint owner, fiar, feuar, and lessee under a lease recorded under the Registration of Leases (Scotland) Act, 1857, whereof a period of not less than ten years in excess of the period fixed for the repayment of the loan remains unexpired at the date of the loan.

Power of local authorities and county councils to make advances, &c., for the purpose of increasing housing accommodation.

75.—(1) A local authority or a county council may, subject to such conditions as may be approved by the Board—

(*a*) advance money, subject to the provisions hereinafter contained, to persons or bodies of persons—

(i) constructing or altering or undertaking to construct or alter houses, or

(ii) acquiring or undertaking to acquire houses the construction of which was begun after the twenty-fifth day of April, nineteen hundred and twenty-three,

whether such houses are within or without the area of the local authority or county council;

(*b*) undertake to guarantee the repayment to a society incorporated under the Building Societies Acts, 1874 to 1894, or the Industrial and Provident Societies Acts, 1893 to 1913, of any advances (with interest thereon) made by the

society to any of its members for the purpose of enabling them to build houses or acquire houses the construction of which was commenced after the twenty-fifth day of April, nineteen hundred and twenty-three, whether such houses are within or without the area of the local authority or county council;

(*c*) in the case of the conversion of a house into two or more separate and self-contained flats, undertake that, if the aggregate rateable value of the flats exceeds the rateable value of the house before conversion, they will, during such period not exceeding twenty years as is specified in the undertaking, refund to the person by whom the rates on any such flat are payable the whole or any part of the difference between the rates paid by him and the rates which would be payable were the rateable value of the flat reduced by such an amount that the reduced value would bear to the rateable value the same proportion as the rateable value of the house before conversion bears to the aggregate rateable value of the flats.

(2) The local authority or county council before granting any such assistance shall satisfy themselves that the houses or flats in respect of which assistance is to be given will, when the building, alteration or conversion has been completed, be in all respects fit for human habitation, and in particular that the superficial area of any such house or flat will not be less than—

(*a*) in the case of a two-storied house six hundred and twenty feet; and

(*b*) in the case of a structurally separate and self-contained flat or a one-storied house five hundred and fifty feet;

those measurements being calculated in accordance with rules made by the Board:

Provided that, if the local authority or county council in any particular case satisfy the Board that, having regard to special circumstances existing in their area, there is a need for houses of smaller dimensions, the minimum measurement may be reduced as respects such limited number of houses for that area and subject

to such conditions as the Board may determine, in the case of a two-storied house to five hundred and seventy, and in the case of a flat or a one-storied house to five hundred superficial feet.

(3) Any such advance as aforesaid shall be subject to the following conditions:—

(*a*) The advance with interest thereon shall be secured by bond and disposition in security or deed of security in such other form as the parties concerned may agree, and the advance shall not exceed ninety per cent. of the value of the interest of the borrower in the property; and the bond and disposition in security or other security deed may provide for repayment being made either by instalments of principal or by an annuity of principal and interest combined, so, however, that in the event of any of the conditions subject to which the advance is made not being complied with, the balance for the time being unpaid shall become repayable on demand by the local authority or county council; and

(*b*) The advance may be made by instalments from time to time as the building or alteration of the house progresses, so, however, that the total of the advance does not at any time before the completion of the house exceed fifty per cent. of the value of the work done up to that time on the construction, or on works incidental to the construction, of the house, including the value of the interest of the borrower in the site thereof; and

(*c*) The advance shall not be made except after a valuation duly made on behalf of the local authority or county council; and

(*d*) Where the interest upon which the advance is to be made is a leasehold interest, no advance shall be made unless the lease is for a term of years whereof a period of not less than ten years in excess of the period fixed for the repayment of the advance remains unexpired at the date of the advance.

(4) An advance or guarantee under this section shall not be made or given if the estimated value of the house, subject to the feu duty, ground annual or other burden incident to tenure, but free from incumbrances, in respect of which the advance or guarantee is to be made or given exceeds fifteen hundred pounds, but such an advance or guarantee may be made or given in addition to assistance given by the local authority or county council under any other Act in respect of the same house.

In the case of an advance for the construction of one or more structurally separate and self-contained flats, the estimated value for the purposes of the foregoing limitation shall, as respects any flat, be the estimated value of the flat.

Loans by local authorities executing scheme outside their own districts.

76. Where a housing scheme approved under Part III. of this Act is being carried into effect by a local authority outside their own district, that local authority shall, subject to the approval of the Board, have power to advance to the local authority of the district in which the scheme is being carried out such sums as may, by reason of any agreement made with the last-mentioned local authority under Part III. of this Act, be required by the last-mentioned local authority in connection with the construction by them of any works necessary for the purposes of or incidental to the carrying out of the scheme.

Supplemental.

Accounts and audit.

77.—(1) Separate accounts shall be kept by a local authority and their officers of their receipts and expenditure under Part I., Part II., and Part III. of this Act respectively.

(2) Such accounts shall be audited in the like manner and with the like power to the officer auditing the same, and with the like incidents and consequences, as the accounts of the local authority are for the time being required to be audited by law.

(3) Where land acquired by a local authority under Part III. of this Act is appropriated for the purpose of re-housing persons displaced by the local authority under the powers of any other Part of this Act or of any other

enactment, the receipts and expenditure in respect of that land (including all costs in respect of the acquisition and laying out of the land), and of any buildings erected thereon, may be treated as receipts and expenditure under that Part or enactment, but shall be accounted for under a separate head.

Application of purchase money.

78. The proceeds of the sale of any land acquired by a local authority for any of the purposes of this Act shall be applied for any purpose, including repayment of borrowed money, for which capital money may be applied, and which is approved by the Board.

Part V.

General.

Re-housing by Undertakers.

Re-housing obligations where land is acquired under statutory provisions.

79. Where, under the powers given by any local Act or Provisional Order, or Order having the effect of an Act, any land is acquired, whether compulsorily or by agreement, by any authority, company, or person, or where any land is so acquired compulsorily under any general Act other than this Act or any Act repealed by this Act, the provisions set out in the Fifth Schedule to this Act shall apply with respect to the provision of housing accommodation for persons of the working class.

Provisions as to Building Regulations and Byelaws, &c.

Relaxation of building regulations.

80.—(1) Where in pursuance of a housing scheme to which this section applies new buildings are constructed or public streets or roads are laid out and constructed in accordance with plans and specifications approved by the Board, the provisions of any building regulations shall not apply to the new buildings and new streets or roads constructed and laid out in pursuance of the scheme so far as those provisions are inconsistent with the plans and specifications approved by the Board, and, notwithstanding the provisions of any other Act, any street or road laid out and constructed in accordance with such plans and specifications may be taken over and thereafter maintained by the authority responsible for the maintenance of public streets, roads, or highways in the district.

(2) Where the Board have approved plans and specifications which in certain respects are inconsistent with the provisions of any building regulations in force in the district in which the works are to be executed, any proposals for the erection therein of buildings and the laying out and construction of new streets or roads which do not form part of a housing scheme to which this section applies may, notwithstanding those provisions, be carried out if the local authority or, on appeal, the Board are satisfied that they will involve departures from such provisions only to the like extent as in the case of the plans and specifications so approved.

(3) Where the Board are themselves carrying a housing scheme into execution, it shall not be necessary for the Board to obtain the authority of the local authority or the Dean of Guild Court for the construction of buildings, or for the laying out and construction of streets and roads as aforesaid.

(4) The housing schemes to which this section applies are schemes made by a local authority or by local authorities jointly under this Act, or by a public utility society or housing trust, or by a county council or district board of control for the provision of houses for persons in their employment or paid by them, and approved by the Board, and schemes made, or carried into execution by the Board under this Act.

Provisions as to bye-laws relating to new streets.

81.—(1) For the purpose of facilitating the erection of dwelling-houses, the Board may prescribe a code of building byelaws relating to the level, width, and construction of new streets, but no such code shall have effect unless and until adopted by resolution of a local authority; and where such code or any part thereof is so adopted it shall not be necessary for the local authority to comply with the requirements of section three hundred and eighteen of the Burgh Police (Scotland) Act, 1892, or, if the byelaws are made under a local Act, the corresponding provisions of that Act, and the code or such part thereof shall have full force and effect as part of the byelaws of the local authority in substitution for such of the existing byelaws of the authority as may be specified in the resolution.

55 & 56 Vict. c. 55.

(2) Where a local authority have approved any plans and sections for a new street, subject to any conditions

imposed or authorised by any byelaws in force in the district of that local authority, those conditions may be enforced at any time by the local authority against the owner for the time being of the land to which the conditions relate.

(3) Where as respects the district of any local authority matters relating to the level, width and construction of new streets are regulated by any statutory enactment and not by byelaws, and the local authority pass a resolution adopting the said code or any part thereof, the code or such part as aforesaid shall have full force and effect as if it formed part of the statutory enactment in substitution for such provisions of the statutory enactment as may be specified in the resolution.

(4) Before a resolution is passed under this section notice of the proposed resolution shall be published in one or more newspapers in circulation in the district, and when such a resolution has been passed the local authority shall, within seven days thereafter, send a copy of the resolution to the Board.

Power to Board to revoke unreasonable byelaws.

82.—(1) If the Board are satisfied, by local inquiry or otherwise, that the erection of any buildings within any burgh or district is or is likely to be unreasonably impeded in consequence of any byelaws with respect to new streets or buildings in force therein, the Board may require the local authority to revoke such byelaws or to make such new byelaws as they may consider necessary for the removal of the impediment.

(2) If the local authority do not within three months after such requisition comply therewith, the Board may themselves revoke such byelaws, and make such new byelaws as they may consider necessary for the removal of the impediment, and such new byelaws shall have effect as if they had been duly made by the local authority and confirmed.

Byelaws as to accommodation for seasonal workers.

83.—(1) With a view to the provision of proper accommodation for seasonal workers, a local authority may, and if required by the Board shall, make byelaws for the whole or any part of their district with respect to the following matters:—

(*a*) Intimation to the local authority of the intention to employ seasonal workers;

(*b*) The nature and extent of the accommodation to be provided for such workers, including due provision for—

(i) sleeping accommodation and separation of the sexes;

(ii) lighting, ventilation, cubic space, cleanliness, and furnishing, including beds and bedding and cooking utensils;

(iii) storage of food, washing of clothes, and drying of wet clothes;

(iv) waterclosets or privies for the separate use of the sexes; and

(v) a suitable supply of water;

(*c*) Determining the persons responsible for the provision of the accommodation required by the byelaws, taking into account the terms of current contracts;

(*d*) Inspection of the premises;

(*e*) Exhibition on the premises of the byelaws;

(*f*) Such other matters relating to the accommodation of seasonal workers (including determining the persons responsible for regulating the use by the workers of the accommodation), as the Board may from time to time prescribe.

(2) In cases of emergency, the Board may, on the application of the Board of Agriculture for Scotland, suspend, as respects the district of any local authority or any part thereof, the operation of any byelaw made under this section which affects agricultural interests.

(3) Without prejudice to the other provisions of this section, housing accommodation in accordance with the byelaws shall, in the case of potato-workers, harvesters, fruit-pickers and other seasonal workers employed on farms or fruit farms, be provided by the farmer or fruit-grower:

Provided that, if the provision of such accommodation involves the erection of additional buildings, the farmer or fruit-grower may require the landlord to erect such buildings on terms and conditions to be determined, failing agreement, by the Board of Agriculture for Scotland.

(4) In this section the expression " seasonal workers " includes navvies, harvesters, potato-workers, fruit-pickers, herring-gutters, and such other workers engaged in work of a temporary nature, as the Board may from time to time prescribe.

Application of certain provisions as to bye-laws.

84. The provisions of sections one hundred and eighty-three to one hundred and eighty-seven of the Public Health (Scotland) Act, 1897, which relate to bye-laws under that Act, shall apply to byelaws made by a local authority under this Act, and a fine or penalty under any such byelaw may be recovered on summary conviction :

Provided that—

(*a*) the Board, before they allow, modify, or disallow any byelaws with respect to housing accommodation for seasonal workers, shall consult with the Board of Agriculture for Scotland, or with the Fishery Board for Scotland, as the case may be, in so far as agricultural or fishery interests respectively are affected by such byelaws;

(*b*) nothing in this section shall apply as respects the adoption by a local authority of any code of byelaws relating to new streets under this Part of this Act.

Power to authorise conversion of a house into two or more dwellings.

85.—(1) Where it is proved to the satisfaction of the sheriff, on an application by the local authority or the feuar or lessee of a house, that, owing to changes in the character of the neighbourhood in which such house is situate, the house cannot readily be let as a single dwelling but could readily be let if converted into two or more dwellings, and that the conditions or restrictions of the feu charter or feu contract or the provisions of the lease do not admit of such conversion, the sheriff, after giving any person entitled to any interest in the house or entitled to enforce such condition, restriction or provision, an opportunity of being heard, may vary the conditions or restrictions of the feu charter or feu contract or the terms of the lease so as to enable the house to be so converted, subject to such conditions and upon such terms as the sheriff may think just, and the decision of the sheriff shall be final.

(2) In this section the expression "sheriff" shall not include sheriff-substitute.

Restriction on Acquisition of certain Lands.

Provisions as to commons and open spaces.

86.—(1) Where any scheme or order under this Act authorises the acquisition or appropriation to any other purpose of any land forming part of any common or open space, the scheme or order, so far as it relates to the acquisition or appropriation of such land, shall be provisional only, and shall not have effect unless and until it is confirmed by Parliament, except where the scheme or order provides for giving in exchange for such land other land, not being less in area, certified by the Board, after consultation with the Board of Agriculture for Scotland to be equally advantageous to the persons, if any, entitled to common or other rights and to the public.

(2) Before giving any such certificate the Board shall give public notice of the proposed exchange, and shall afford opportunities to all persons interested to make representations and objections in relation thereto, and shall, if necessary, hold a local inquiry on the subject.

(3) Where any such scheme or order authorises such an exchange, the scheme or order shall provide for vesting the land given in exchange in the persons in whom the common or open space was vested, subject to the same rights, trusts, and incidents as attached to the common or open space, and for discharging the part of the common or open space, acquired or appropriated from all rights, trusts, and incidents, to which it was previously subject.

(4) For the purposes of this Act the expression "common" includes any town or village green; and the expression "open space" means any land laid out as a public garden or used for the purposes of public recreation and any disused burial ground.

Provisions as to land in neighbourhood of royal palaces or parks.

87.—(1) Where any land proposed to be included in any scheme or order to be made under this Act, or any land proposed to be acquired under this Act, is situate within the prescribed distance from any of the royal palaces or parks, the local authority shall, before preparing the scheme or order or acquiring the land, communicate with the Commissioners of Works, and the Board shall,

before confirming the scheme or order or authorising the acquisition of the land or the raising of any loan for the purpose, take into consideration any recommendations they may have received from the Commissioners of Works with reference to the proposal.

(2) For the purposes of this section "prescribed" means prescribed by regulations made by the Board after consultation with the Commissioners of Works.

Saving for sites of ancient monuments, &c.

88. Nothing in this Act shall authorise the acquisition for the purposes of this Act of any land which is the site of an ancient monument or other object of archæological interest.

Special Powers and Duties of Local Authorities.

Power of entry on land compulsorily acquired.

89.—(1) Where a local authority are by an order confirming a scheme under Part II. of this Act or by an order made and confirmed under Part III. of this Act authorised to purchase land compulsorily for the purpose of the scheme or of Part III. of this Act, then, at any time after notice to treat has been served, the local authority may, after giving to the owner and occupier of the land such notice as is hereinafter mentioned, enter on and take possession of the land or such part thereof as is specified in the notice without previous consent or compliance with the provisions of sections eighty-three to eighty-eight of the Lands Clauses Consolidation (Scotland) Act, 1845, but subject to the payment of the like compensation for the land of which possession is taken, and interest on the compensation awarded as would have been payable if those provisions had been complied with.

8 & 9 Vict. c. 19.

(2) The length of notice required to be given under the foregoing provisions of this section shall—

(*a*) in the case of land purchased for the purposes of a scheme under Part II. of this Act, be not less than twenty-eight days; and

(*b*) in the case of land purchased for the purposes of Part III. of this Act, be not less than fourteen days.

Powers in connection with provision of houses.

90.—(1) Any power of the local authority under this Act, or under any scheme made in pursuance of this Act, to provide housing accommodation, shall include a power to provide and maintain, with the consent of the Board,

and, if desired, jointly with any other person, in connection with any such housing accommodation, any building adapted for use as a shop, any recreation grounds, or other buildings or land which in the opinion of the Board will serve a beneficial purpose in connection with the requirements of the persons for whom the housing accommodation is provided.

(2) The Board may, in giving their consent to the provision of any land or building under this section, by order apply, with any necessary modifications, to such land or building any statutory provisions which would have been applicable thereto if the land or building had been provided under any enactment giving any local authority powers for the purpose.

Power of local authority to enforce obligation against owner for the time being of land.

91. Where a local authority have sold land acquired by them under this Act or any enactment repealed by this Act, and the purchaser of the land has entered into an obligation with the local authority concerning the land, the local authority shall have power to enforce the obligation against the persons deriving title under that purchaser, notwithstanding that the local authority are not in possession of or interested in any land for the benefit of which the obligation was entered into, in like manner and to the like extent as if they had been in possession of or interested in such land.

Power of local authority to appoint committees.

92. A local authority may appoint a committee consisting of so many persons as they may think fit, for any purposes of this Act which in the opinion of the local authority would be better regulated and managed by means of a committee:

Provided that a committee so appointed shall consist as to a majority of its members of members of the appointing local authority and shall in no case be authorised to raise any money by rate or loan, and shall be subject to any regulations and restrictions which may be imposed by the appointing local authority.

Joint action by local authorities.

93. Where, upon an application made by one of the local authorities concerned, the Board are satisfied that it is expedient that any local authorities should act jointly for any purposes of this Act, either generally or in any special case, the Board may by order make provision for the purpose, and any provisions so made shall have the same effect as if they were contained in an

order made under section eighty-three of the Public Health (Scotland) Act, 1897.

Sale and disposal of land and houses.

94. Notwithstanding anything contained in this Act, it shall not be obligatory upon a local authority to sell and dispose of any lands or houses acquired or constructed by them for any of the purposes of this Act or of any enactment repealed by this Act, unless ordered to do so by the Board in exercise of any powers conferred on them by this Act.

Donations for housing purposes.

95. A local authority may accept a donation of land or money or other property for any of the purposes of this Act.

Powers of the Board.

Local inquiries.

96.—(1) For the purposes of the execution of their powers and duties under this Act, the Board may cause such local inquiries to be held as they may think fit, and the expenses incurred in relation to any such local inquiry (including the remuneration of any person employed by the Board for the purpose of the inquiry), shall be paid by the local authorities and persons concerned in the inquiry, or by such of them and in such proportions as the Board may direct, and the Board may certify the amount of the expenses incurred, and any sum so certified and directed by the Board to be paid by any local authority or person shall be a debt to the Crown from such local authority or person.

(2) Except so far as inconsistent with the provisions of the preceding subsection, sections seven, eight, nine, and ten of the Public Health (Scotland) Act, 1897, shall apply for the purpose of local inquiries ordered by the Board under this Act.

Power of Board to obtain a report on any crowded area.

97. If it appears to the Board that owing to density of population, or any other reason, it is expedient to inquire into the circumstances of any area with a view to determining whether any powers under this Act should be put into force in that area or not, the Board may require the local authority to make a report to them containing such particulars as to the population of the district and other matters as they may direct, and the local authority shall comply with the requirement of the Board, and any expenses incurred by them in so doing shall be paid as expenses incurred in the execution of such Part of this Act as the Board may determine.

Arrangements between the Board and other departments.

98. The Board may make arrangements with any other Government Department for the exercise or performance by that Department of any of their powers and duties under this Act, which, in the opinion of the Board, could more conveniently be so exercised and performed, and in such case the Department and officers of the Department shall have the same powers and duties as are by this Act conferred on the Board and their officers.

Notices, Orders, &c.

Service of notice, &c. on local authority.

99. Any notice, summons, writ or other proceeding at law or otherwise required to be served on a local authority in relation to carrying into effect the objects or purposes of this Act, or any of them, may be served upon the local authority by delivering it to their clerk, or leaving it at his office with some person employed there, or by sending it by post in a registered letter addressed to the local authority, or their clerk, at the office of the local authority.

Orders, notices, &c., by local authority.

100.—(1) An order in writing made by a local authority under this Act shall be under their seal and authenticated by the signature of their clerk or his lawful deputy, or where the local authority have not a seal shall be authenticated by the signature of any two or more members of the local authority and of their clerk or his lawful deputy.

(2) A notice, demand, or other written document proceeding from a local authority under this Act shall be signed by their clerk or his lawful deputy.

Service of notice, &c.

101.—(1) Subject to the foregoing provisions as to the service of notices, summonses, writs and other proceedings at law or otherwise on local authorities, any notice, order, or other document required or authorised to be served under this Act may be served either—

(*a*) by delivering it to the person on whom it is to be served; or

(*b*) by leaving it at the usual or last-known place of abode of that person; or

(*c*) by forwarding it by post in a pre-paid registered letter addressed to that person at his usual or last-known place of abode, or in the case of an incorporated company or registered society addressed to the secretary of the company or

society at the registered or principal office of the company or society; or

(*d*) if addressed to the "owner" or "occupier" of premises, by delivering it to some person on the premises, or if there is no person in the premises on whom it can be so served, then by affixing it to some conspicuous part of the premises.

(2) Subject as aforesaid, any notice, order, or other document which is by this Act required or authorised to be served on the owner or occupier of any premises, may be addressed to the "owner" or "occupier" of the premises (naming them) without further name or description.

Power to prescribe forms and to dispense with advertisements and notices.

102.—(1) The Board may by order prescribe the form of any notice, advertisement, or other document to be used in connection with the powers and duties of a local authority or of the Board under this Act, and the forms so prescribed, or forms as near thereto as circumstances admit, shall be used in all cases to which those forms are applicable.

(2) The Board may dispense with the publication of advertisements or the service of notices required to be published or served by a local authority under this Act, if they are satisfied that there is reasonable cause for dispensing with the publication or service.

(3) Any such dispensation may be given by the Board either before or after the time at which the advertisement is required to be published, or the notice is required to be served, and either unconditionally or upon such conditions as to the publication of other advertisements or the service of other notices or otherwise as the Board think fit, due care being taken by the Board to prevent the interests of any person being prejudiced by the dispensation.

Appeals to Sheriff.

Procedure on appeals to sheriff.

103.—(1) The procedure on any appeal to the sheriff under this Act (including expenses) shall be such as the Court of Session may by Act of Sederunt determine.

(2) On any appeal to the sheriff under this Act the sheriff may make such order in the matter as he thinks equitable, and any order so made shall be binding and conclusive on all parties, and, where the appeal is against any notice or order given or made by the local authority,

the notice or order may be confirmed, varied, or quashed, as the sheriff thinks just:

Provided that the sheriff may at any stage of the proceedings on appeal, and shall, if so directed by the Court of Session, state in the form of a special case for the opinion of the court any question of law arising in the course of the appeal.

(3) Any notice or order as respects which an appeal to the sheriff is given under this Act shall not become operative, until either the time within which an appeal can be made under this Act has elapsed without an appeal being made, or, in case an appeal is made, the appeal is determined or abandoned, and no work shall be done or proceedings taken under any such notice or order, until it becomes operative.

(4) The sheriff may, before considering any appeal which may be made to him under this Act, require the appellant to deposit such sum to cover the expenses of the appeal as may be fixed by the Act of Sederunt made by the Court of Session with reference to appeals.

Offences, &c.

Penalty for obstructing the execution of Act.

104. Where any person obstructs the medical officer of health, or any officer of the local authority, or any officer of the Board or any person authorised to enter houses, premises or buildings in pursuance of this Act in the performance of anything which such officer, local authority or person is by this Act required or authorised to do, he shall, on summary conviction, be liable to a fine not exceeding twenty pounds.

Penalty for preventing execution of repairs.

105.—(1) If any person, after notice of the intended action—

(*a*) being the occupier of any premises prevents the owner thereof, or his officers, agents, servants or workmen from carrying into effect with respect to those premises any of the provisions of Part I. of this Act; or

(*b*) being the owner or occupier of any premises prevents the medical officer of health, or any officers, agents, servants, or workmen of such officer or of the local authority from so doing;

the sheriff or any two justices of the peace sitting in open court or any magistrate having jurisdiction in the

place on proof thereof may order that person to permit to be done on the premises all things requisite for carrying into effect such provisions with respect to the premises.

(2) If any such person fails to comply with such an order, he shall for each day during which the failure continues be liable on summary conviction to a fine not exceeding twenty pounds.

Penalty for damage to houses.

106. Any person who wilfully or by culpable negligence damages or suffers to be damaged, any dwelling-house provided for the working classes under this Act, or any enactment repealed by this Act, or any of the fittings or appurtenances of any such house, including the drainage and water supply and any apparatus connected with the drainage or water supply, and the fence of any enclosure, shall be liable on summary conviction to a penalty not exceeding forty shillings, without prejudice to any remedy for the recovery of the amount of the damage.

Prohibition on persons interested voting as members of local authority.

107.—(1) A person shall not vote as member of a local authority or any committee thereof upon any resolution or question which is proposed or arises in pursuance of this Act, if it relates to any house, building, or land in which he is beneficially interested:

Provided that, notwithstanding anything in any enactment, a person shall not, by reason only of the fact that he occupies under any lease or agreement with, or has purchased or agrees to purchase from a local authority a house belonging to the local authority, be disqualified from being nominated, elected, being or continuing a member of the local authority or of any committee thereof.

(2) If any person votes in contravention of this section he shall, on summary conviction, be liable for each offence to a fine not exceeding fifty pounds; but the fact of his giving the vote shall not invalidate any resolution or proceeding of the local authority.

Miscellaneous.

Description of owner in proceedings.

108. Where in any proceedings under Part I. of this Act it is necessary to refer to the owner of any premises it shall be sufficient to designate him as the "owner" thereof without name or further description.

Power of entry.

109. Any person authorised in writing stating the particular purpose or purposes for which the entry is authorised, by the local authority or the Board, may at all reasonable times, on giving twenty-four hours' notice to the occupier and to the owner, if the owner is known, of his intention, enter any house, premises or buildings—

(*a*) for the purpose of survey or valuation, in the case of houses, premises, or buildings which the local authority are authorised to purchase compulsorily under this Act; and

(*b*) for the purpose of survey and examination, in the case of any house in respect of which a closing order or an order for demolition has been made; or

(*c*) for the purpose of survey and examination, where it appears to the local authority or Board that survey or examination is necessary in order to determine whether any powers under this Act should be exercised in respect of any house, premises, or building.

Power of heir of entail to sell or feu land for housing purposes.

110. Without prejudice to any powers, whether statutory or otherwise, already enjoyed by an heir of entail in possession of an entailed estate in Scotland to sell or grant feus of any part of such estate, any such heir in possession may, notwithstanding any prohibition or limitation in any deed of entail or in any Act of Parliament, sell or feu to a local authority any part or parts of such estate for any purpose for which a local authority may acquire land under this Act, or to a public utility society or housing trust, for the purpose of the provision of dwelling-houses for the working classes, without its being necessary to obtain the consent of the next heir, and without any restriction as to the extent of ground to be sold or feued, excepting, however, from the provisions of this section, the subjects excepted in section four of the Entail (Scotland) Act, 1914 :

4 & 5 Geo. 5. c. 43.

Provided that—

(i) the price of land so sold shall, in accordance with the provisions of the Entail Acts, be invested for behoof of the heir of entail

in possession and succeeding heirs of entail, and the feuduty shall be received for the same behoof; and

(ii) it shall not be lawful for the heir of entail in possession to take any grassum or valuable consideration other than the feuduty for granting any such feu.

Provisions relating to houses of three rooms or less.

111. It shall not be lawful for any person, without the consent of the local authority, to erect any house intended for human habitation with less accommodation than three apartments, and a local authority shall not give such consent, save in exceptional circumstances, nor shall a local authority or Dean of Guild Court, save in such circumstances, approve of the plans for the erection of such a house :

Provided that the foregoing provision shall not apply to a house for the erection of which the plans had been approved before the nineteenth day of August, nineteen hundred and nineteen.

Exclusion of application of 10 & 11 Geo. 5. c. 17.

112. Nothing in the Increase of Rent and Mortgage Interest (Restrictions) Act, 1920, or in the enactments amending that Act, shall be deemed to affect the provisions of Part I. of this Act relating to obtaining possession of a house with respect to which a closing order has been made, or to prevent a local authority from obtaining possession of any house the possession of which is required by them for the purpose of exercising their powers under this Act or under any scheme made under this Act or any enactment repealed by this Act.

Payment of purchase or compensation money on direction of Board.

113.—(1) Any purchase money or compensation payable in pursuance of this Act by a local authority in respect of any lands, right or interest of another local authority which would, but for this section, be paid into bank in manner provided by the Lands Clauses Acts may, if the Board consent, instead of being paid into bank, be paid and applied as the Board determine.

(2) Any such decision of the Board as to the payment and application of any such purchase money or compensation shall be final and conclusive.

Provisions as to medical officers of health.

114.—(1) Every representation made by a medical officer of health in pursuance of this Act shall be in writing.

(2) Anything which under this Act is authorised or required to be done by or to a medical officer of health may be done by or to any person authorised to act temporarily as such medical officer of health.

Exemption from s. 127 of 8 & 9 Vict. c. 19.

115. Section one hundred and twenty-seven of the Lands Clauses Consolidation (Scotland) Act, 1845 (relating to land tax and poor rate), shall not apply in the case of any lands of which a local authority becomes possessed by virtue of this Act or any enactment repealed by this Act.

Provisions with respect to money applicable under trusts for housing purposes.

116.—(1) If in any case it appears to the Board that the institution of legal proceedings is requisite or desirable with respect to any property required to be applied under any trusts for the provision of dwelling-houses available for the working classes or that the expediting of any such legal proceedings is requisite or desirable, the Board may certify the case to the Lord Advocate and the Lord Advocate, if he thinks fit, shall institute any legal proceedings or intervene in any legal proceedings already instituted in such manner as he thinks proper under the circumstances.

(2) Before preparing any scheme with reference to property required to be applied under any trusts for the provision of dwelling-houses available for the working classes, the court or body who are responsible for making the scheme shall communicate with the Board and receive and consider any recommendations made by the Board with reference to the proposed scheme.

Powers of Act to be cumulative.

117. All powers given by this Act shall be deemed to be in addition to and not in derogation of any other powers conferred by Act of Parliament, law or custom, and such other powers may be exercised in the same manner as if this Act had not passed, and nothing in this Act shall exempt any person from any penalty to which he would have been subject if this Act had not passed :

Provided that a local authority shall not, by reason of any local Act relating to a place within its jurisdiction,

be exempted from the performance of any duty or obligation to which such authority are subject under any Part of this Act.

Local authority for purposes of Act.

118. For the purposes of this Act the local authority and the district of the local authority shall respectively be the local authority for the purposes of the Public Health (Scotland) Act, 1897, and the district of that local authority.

Definitions.

119. In this Act, unless the context otherwise requires—

"Building regulations" means any statutory enactments, byelaws, rules, and regulations, or other provisions under whatever authority made, relating to the construction of new buildings and the laying out of and construction of new streets or roads;

"Burgh" has the same meaning as in the Public Health (Scotland) Act, 1897;

"Dwelling-house" includes any yard, garden, outhouses, and pertinents belonging thereto or usually enjoyed therewith;

"Housing trust" means a corporation or body of persons which by the terms of its constituent instrument is required to devote the whole of its funds, including any surplus which may arise from its operations, to the provision of dwelling-houses for persons the majority of whom are in fact members of the working classes, and to other purposes incidental thereto;

"Land" includes any right over land;

"Owner" includes any person who under the Lands Clauses Acts would be enabled to sell and convey land to the promoters of an undertaking, and for the purposes of Part I. of this Act also includes any lessee of or holder of a heritable security over premises required to be dealt with under that Part of this Act, except any person holding or entitled to the rents and profits of the premises under a lease the original term whereof is less than twenty-one years;

"Public utility society" means a society registered under the Industrial and Provident Societies Acts, 1893 to 1913, or any amendment thereof,

the rules whereof prohibit the issue of any share or loan capital with interest or dividend exceeding the rate for the time being prescribed by the Treasury;

"Street" includes any court, alley, passage, square or row of houses whether a thoroughfare or not;

"The Board" means the Scottish Board of Health.

Repeals.

120.—(1) The enactments mentioned in the Sixth Schedule to this Act are, so far as they apply to Scotland, hereby repealed to the extent specified in the third column of that schedule:

Provided that—

(*a*) nothing in this repeal shall affect any scheme, order, byelaw, rule, regulation or representation made, notice given or charge effected under any enactment hereby repealed, but any such scheme, order, byelaw, rule, regulation, representation, notice and charge shall have effect as if made, given or effected under the corresponding provision of this Act and may be amended, varied, repealed, revoked or enforced accordingly;

(*b*) any document referring to any Act or enactment so repealed shall be construed as referring to this Act or the corresponding enactment in this Act;

(*c*) nothing in this repeal shall affect any appointment of any officer made under or by virtue of any enactment so repealed, but any such officer shall continue in office and shall be deemed to have been appointed under this Act.

(2) The mention of particular matters in this section shall not be held to prejudice or affect the general application of section thirty-eight of the Interpretation Act, 1889, with regard to the effect of repeals.

52 & 53 Vict. c. 63.

Short title, commencement and extent.

121.—(1) This Act may be cited as the Housing (Scotland) Act, 1925.

(2) This Act shall come into operation on the first day of July, nineteen hundred and twenty-five.

(3) This Act shall extend to Scotland only.

SCHEDULES.

FIRST SCHEDULE.

Sections 16, 37.

Rules as to Assessment of Compensation.

Part I.

Rules applicable in the case of Lands included in an Improvement or Reconstruction Scheme only for the purpose of making the Scheme efficient, and not on account of the Sanitary Condition of the Premises thereon or of those Premises being Dangerous or Prejudicial to Health.

1. Evidence shall be receivable by the arbiter to prove that the rental of the premises was enhanced by reason of the same being used for illegal purposes or being so overcrowded as to be dangerous or injurious to the health of the inmates, and, if the arbiter is satisfied by such evidence, the compensation shall, so far as it is based on rental, be based on the rental which would have been obtainable if the premises were occupied for legal purposes and only by the number of persons whom the premises were, under all the circumstances of the case, fitted to accommodate without such overcrowding.

2. Evidence shall be receivable by the arbiter to prove that the premises are in a state of defective sanitation or are not in reasonably good repair, and if the arbiter is satisfied by such evidence, the compensation shall be the amount estimated as the value of the premises if they had been put into a sanitary condition or reasonably good repair after deducting the estimated expense of putting them into such condition or repair.

The local authority may tender such evidence as aforesaid before the arbiter, notwithstanding that they have not taken any steps with a view to remedying the defects or evils disclosed by the evidence.

3. The arbiter shall have regard to and make an allowance in respect of any increased value which, in his opinion, will be given to other premises of the same owner by the alteration or demolition by the local authority of any buildings.

4. Subject to the foregoing provisions the compensation to be paid shall be assessed in accordance with the provisions of the Acquisition of Land (Assessment of Compensation) Act, 1919.

1ST SCH. —*cont.*

PART II.

RULES APPLICABLE IN THE CASE OF THE PURCHASE OF LANDS ON WHICH OBSTRUCTIVE BUILDINGS ARE ERECTED.

1. Evidence shall be receivable by the arbiter to prove that the rental of the premises was enhanced by reason of the same being used for illegal purposes or being so overcrowded as to be dangerous or injurious to the health of the inmates, and, if the arbiter is satisfied by such evidence, the compensation shall, so far as it is based on rental, be based on the rental which would have been obtainable if the premises were occupied for legal purposes and only by the number of persons whom the premises were, under all the circumstances of the case, fitted to accommodate without such overcrowding as is dangerous or injurious to the health of the inmates.

2. Evidence shall be receivable by the arbiter to prove that the premises are in a state of defective sanitation or are not in reasonably good repair, and if the arbiter is satisfied by such evidence, the compensation shall be the amount estimated as the value of the premises if they had been put into a sanitary condition or into reasonably good repair after deducting the estimated expense of putting them into such condition or repair.

The local authority may tender such evidence as aforesaid before the arbiter, notwithstanding that they have not taken any steps with a view to remedying the defects or evils disclosed by the evidence.

3. The arbiter may, by one award, settle the amount or amounts of compensation payable in respect of all or any of the houses or buildings included in one or more order or orders made by the local authority; but he may, and, if the local authority request him so to do, shall, from time to time make an award respecting a portion only of the disputed cases brought before him.

4. The arbiter shall have regard to and make an allowance in respect of any increased value which, in his opinion, will be given to other premises of the same owner by the demolition of the obstructive building.

5. Subject to the foregoing provisions the compensation to be paid shall be assessed in accordance with the provisions of the Acquisition of Land (Assessment of Compensation) Act 1919.

PART III.

RULES APPLICABLE WHERE OBSTRUCTIVE BUILDINGS ARE PULLED DOWN, THE OWNER RETAINING THE SITE.

1. The estimate of the value of the house or building to be pulled down shall be based on the fair market value as estimated at the time of the valuation being made of the house or building

1st Sch. —*cont.*

and of the several interests therein, due regard being had to the nature and then condition of the property and the probable duration of the buildings in their existing state and to the state of repair thereof, and rules 1, 2, 3 and 4 of Part II. of this Schedule shall apply.

2. No allowance shall be made by reason of the pulling down being compulsory.

3. Subject to the foregoing provisions the compensation to be paid shall be assessed under the Acquisition of Land (Assessment of Compensation) Act, 1919, and the provisions of that Act, other than section two thereof, shall apply accordingly, notwithstanding that no land is acquired compulsorily.

SECOND SCHEDULE.

Provisions subject to which the Lands Clauses Acts are incorporated in an Order confirming an Improvement or Reconstruction Scheme.

1. The legal progress of the title deeds in the case of purchase of an interest in feesimple in land, whether the purchase is compulsory or by agreement, shall commence twenty years previous to the date of service of the notice to treat or of the agreement to sell, as the case may be, unless there has been an absolute conveyance on sale within twenty years, and more than ten years previous to that date, in which case the legal progress of the title deeds shall commence with such conveyance: Provided that the local authority shall not be prevented, if they think fit, from requiring at their own expense any further legal progress or evidence of the title deeds respecting any such lands as aforesaid in addition to the legal progress hereinbefore mentioned.

2. Notwithstanding anything in section ninety of the Lands Clauses Consolidation (Scotland) Act, 1845, the arbiter may determine that such part of any house, building or manufactory as is proposed to be taken by the local authority can be taken without material damage to such house, building or manufactory, and if he so determine may award compensation in respect of the severance of the part so proposed to be taken, in addition to the value of that part, and thereupon the party interested shall be required to sell and convey to the local authority such part, without the local authority being obliged to purchase the other part or the whole of such house, building or manufactory.

Section 51.

THIRD SCHEDULE.

PROVISIONS AS TO THE COMPULSORY ACQUISITION OF LAND BY A LOCAL AUTHORITY FOR THE PURPOSES OF PART III. OF THIS ACT.

1. Where a local authority propose to purchase land compulsorily under this Act, the local authority may submit to the Board an order putting in force as respects the land specified in the order the provisions of the Lands Clauses Acts with respect to the purchase and taking of land otherwise than by agreement.

2. An order under this Schedule shall be of no force unless and until it is confirmed by the Board, and the Board may confirm the order either without modification or subject to such modifications as they think fit, and an order when so confirmed shall, save as otherwise expressly provided by this Schedule, become final and have effect as if enacted in this Act; and the confirmation by the Board shall be conclusive evidence that the requirements of this Act have been complied with, and that the order has been duly made and is within the powers of this Act.

3. The order shall be in the form prescribed by the Board, and shall contain such provisions as the Board may prescribe for the purpose of carrying the order into effect, and of protecting the local authority and the persons interested in the land, and shall incorporate, subject to the necessary adaptations—

8 & 9 Vict. c. 33.

(*a*) the Lands Clauses Acts (except section one hundred and twenty of the Lands Clauses Consolidation (Scotland) Act, 1845), as modified by the Acquisition of Land (Assessment of Compensation) Act, 1919; and

(*b*) sections seventy to seventy-eight of the Railways Clauses Consolidation (Scotland) Act, 1845.

4. The order shall be published by the local authority in the manner prescribed by the Board, and such notice shall be given both in the locality in which the land is proposed to be acquired, and to the owners, lessees and occupiers of that land as may be prescribed by the Board.

5. If within such period as may be prescribed by the Board no objection to the order has been presented to the Board by a person interested in the land, or if every such objection has been withdrawn, the Board shall, without further inquiry, confirm the order, unless they are of opinion that the land is unsuited for the purpose for which it is proposed to be acquired, but, if such an objection has been presented and has not been withdrawn, the Board shall forthwith cause a public inquiry to be held in the locality in which the land is proposed to be acquired, and the local authority and all persons interested in the land and such

other persons as the person holding the inquiry in his discretion thinks fit to allow shall be permitted to appear and be heard at the inquiry, and the Board shall before confirming the order duly consider the report of the person by whom the public inquiry is held.

6. In construing for the purposes of this Schedule or any order made thereunder any enactment incorporated with the order, this Act together with the order shall be deemed to be the special Act, and the local authority shall be deemed to be the promoters of the undertaking.

7. The reference to sections seventy-one to seventy-eight of the Railways Clauses Consolidation (Scotland) Act, 1845, shall be construed as a reference to those sections as originally enacted and not as a reference to the provisions which by virtue of the Mines (Working Facilities and Support) Act, 1923, are in certain cases to be substituted for those sections.

13 & 14 Geo. 5. c. 20.

FOURTH SCHEDULE.

Section 71.

Provisions as to Local Bonds.

1. Local bonds shall—

(*a*) be secured upon all the rates, property and revenues of the local authority;

(*b*) bear interest at such rate of interest as the Treasury may from time to time fix;

(*c*) be issued in denominations of five, ten, twenty, fifty and one hundred pounds and multiples of hundred pounds;

(*d*) be issued for periods of not less than five years.

2. Local bonds shall be exempt from stamp duty under the Stamp Act, 1891, and no duty shall be chargeable under section eight of the Finance Act, 1899, as amended by section ten of the Finance Act, 1907, in respect of the issue of any such bonds.

54 & 55 Vict. c. 39. 62 & 63 Vict. c. 9. 7 Edw. 7. c. 13.

3. The provisions of section one hundred and fifteen of the Stamp Act, 1891 (which relates to composition for stamp duty), shall, with the necessary adaptations, apply in the case of any local authority by whom local bonds are issued as if these bonds were stock or funded debt of the local authority within the meaning of that section.

4. A local authority shall, in the case of any person who is the registered holder of local bonds issued by that local authority of a nominal amount not exceeding in the aggregate one

4TH SCH. —*cont.*

hundred pounds, pay the interest on the bonds held by that person without deduction of income tax, but any such interest shall be accounted for and charged to income tax under the third case of Schedule D. subject, however, to any provision of the enactments relating to income tax with respect to exemption or abatement.

5. Local bonds issued by a local authority shall be accepted by that local authority at their nominal value in payment of the purchase price of any house erected by or on behalf of any local authority in pursuance of any scheme under this Act.

6. The Board may, with the approval of the Treasury, make regulations with respect to the issue (including terms of issue), transfer and redemption of local bonds and the security therefor, and any such regulations may apply, with or without modifications, any provisions of the Local Loans Act, 1875, and the Acts amending that Act, and of any Act relating to securities issued by any local or public body.

38 & 39 Vict. c. 83.

7. For the purposes of this Schedule, the expression "local authority" includes a county council.

Section 79.

FIFTH SCHEDULE.

PROVISIONS AS TO REHOUSING IN CASE OF DISPLACEMENT OF PERSONS OF THE WORKING CLASSES.

1. If in a district within the meaning of the Public Health (Scotland) Act, 1897, the undertakers have power to take under the enabling Act working-men's dwellings occupied by thirty or more persons belonging to the working class, the undertakers shall not enter on any such dwellings in that district until the Board have either approved of a housing scheme under this Schedule or have decided that such a scheme is not necessary.

For the purposes of this Schedule a house shall be considered a working-man's dwelling if wholly or partially occupied by a person belonging to the working classes, and for the purpose of determining whether a house is a working-man's dwelling or not, and also for determining the number of persons belonging to the working classes by whom any dwellings are occupied, any occupation on or after the fifteenth day of December next before the passing of the enabling Act, or, in the case of land acquired compulsorily under a general Act without the authority of an order, next before the date of the application to the Board under this Schedule, for their approval of or decision with respect to a housing scheme, shall be taken into consideration.

5TH SCH. —*cont.*

2. The housing scheme shall make provision for the accommodation of such number of persons of the working class as is, in the opinion of the Board, taking into account all the circumstances, required, but that number shall not exceed the aggregate number of persons of the working class displaced; and in calculating that number the Board shall take into consideration not only the persons of the working class who are occupying the working-men's dwellings which the undertakers have power to take, but also any persons of the working class who, in the opinion of the Board, have been displaced within the previous five years in view of the acquisition of land by the undertakers.

3. Provision may be made by the housing scheme for giving undertakers who are a local authority, or who have not sufficient powers for the purpose, power for the purpose of the scheme to appropriate land or to acquire land, either by agreement or compulsorily under the authority of a Provisional Order, and for giving any local authority power to erect dwellings on land so appropriated or acquired by them, and to sell or dispose of any such dwellings, and to raise money for the purpose of the scheme as for the purposes of Part III. of this Act, and for regulating the application of any money arising from the sale or disposal of the dwellings; and any provisions so made shall have effect as if they had been enacted in an Act of Parliament.

4. The housing scheme shall provide that any lands acquired under that scheme shall, for a period of twenty-five years from the date of the scheme, be appropriated for the purpose of dwellings for persons of the working class, except so far as the Board may dispense with that appropriation; and every such appropriation of lands shall be recorded as a real burden affecting such lands in the appropriate register of sasines and the Board may require the insertion in the scheme of any provisions requiring a certain standard of house to be erected under the scheme, or any conditions to be complied with as to the mode in which the houses are to be erected.

5. If the Board do not hold a local inquiry with reference to a housing scheme, they shall, before approving the scheme, send a copy of the draft scheme to every local authority, and shall consider any representation by any such local authority made within the time fixed by the Board.

6. The Board may, as a condition of their approval of a housing scheme, require that the new dwellings under the scheme, or some part of them, shall be completed and fit for occupation before possession is taken of any working-men's dwellings under the enabling Act.

7. Before approving any scheme the Board may, if they think fit, require the undertakers to give such security as the Board consider proper for carrying the scheme into effect.

8. The Board may hold such inquiries as they think fit for the purpose of their duties under this Schedule, and subsections

5TH SCH. —*cont.*

(1) and (3) (with the substitution of the Board for the Secretary for Scotland) of section ninety-three of the Local Government (Scotland) Act 1889 (which relate to local inquiries), shall apply for the purpose, and where the undertakers are not a local authority shall be applicable as if they were such an authority.

9. If the undertakers enter on any working-men's dwellings in contravention of the provisions of this Schedule, or of any conditions of approval of the housing scheme made by the Board, they shall be liable to a penalty not exceeding five hundred pounds in respect of every such dwelling; and any such penalty shall be recoverable by the Board by action in the Court of Session and shall be carried to and form part of the Consolidated Fund.

10. If the undertakers fail to carry out any provision of the housing scheme, the Board may make such order as they think necessary or proper for the purpose of compelling them to carry out that provision, and any such order may be enforced by order of the Court of Session on the application of the Board.

11. The Board may, on the application of the undertakers, modify any housing scheme which has been approved by them under this Schedule, and any modifications so made shall take effect as part of the scheme.

12. For the purposes of this Schedule—

(*a*) "undertakers" means any authority, company or person who are acquiring land compulsorily or by agreement under any local Act or Provisional Order or order having the effect of an Act, or are acquiring land compulsorily under any general Act;

(*b*) "enabling Act" means any Act of Parliament or Order under which the land is acquired;

(*c*) "local authority" means the local authority for the purposes of the Public Health (Scotland) Act, 1897 in whose district in any case any houses in respect of which the rehousing scheme is made are situated;

(*d*) "dwelling" or "house" means any house or part of a house occupied as a separate dwelling;

(*e*) "working class" includes mechanics, artisans, labourers and others working for wages, hawkers, costermongers, persons not working for wages, but working at some trade or handicraft without employing others, except members of their own family, and persons other than domestic servants whose income in any case does not exceed an average of three pounds a week, and the families of any of such persons who may be residing with them.

SIXTH SCHEDULE.

Section 120.

Session and Chapter.	Short Title.	Extent of Repeal.
44 & 45 Vict. c. 38.	The Public Works Loans Act, 1881.	Section eleven.
53 & 54 Vict. c. 70.	The Housing of the Working Classes Act, 1890.	The whole Act, so far as unrepealed.
57 & 58 Vict. c. 58.	The Local Government (Scotland) Act, 1894.	Subsection (6) of section twenty-four.
57 & 58 Vict. c. 55.	The Housing of the Working Classes Act, 1894.	The whole Act.
63 & 64 Vict. c. 59.	The Housing of the Working Classes Act, 1900.	The whole Act, so far as unrepealed.
3 Edw. 7. c. 39	The Housing of the Working Classes Act, 1903.	The whole Act, so far as unrepealed.
9 Edw. 7. c. 44	The Housing, Town Planning, &c. Act, 1909.	Part I. Part IV., except so far as it relates to town planning. First Schedule (except so far as applied by any enactment other than an enactment repealed by this Act) and Second, Third and Sixth Schedules.
4 & 5 Geo. 5. c. 33.	The Public Works Loans Act, 1914.	Section four.
9 & 10 Geo. 5. c. 60.	The Housing, Town Planning, &c. (Scotland) Act, 1919.	Part I., except sections five, seven, sixteen, twenty, twenty-two, and twenty-three, and section thirty-one, so far as required for the interpretation of the unrepealed provisions of the Act. Sections forty-one, forty-two, forty-four, forty-five and forty-nine. First, Second and Fourth Schedules.

6TH SCH. —*cont.*

Session and Chapter.	Short Title.	Extent of Repeal.
9 & 10 Geo. 5. c. 57.	The Acquisition of Land (Assessment of Compensation) Act, 1919.	In section seven the words "for the purposes of Part "I. or Part II. of the Housing of the WorkingClasses "Act, 1890, or" and the words from "and the provisions of the Second "Schedule" to the end of subsection (1).
9 & 10 Geo. 5. c. 99.	The Housing (Additional Powers) Act, 1919.	The whole Act, except sections eight, ten and fifteen and sections eleven and thirteen so far as they relate to the unrepealed provisions of the Act.
10 & 11 Geo.5. c. 71.	The Housing (Scotland) Act, 1920.	The whole Act, except sections seven and nine, and section eight so far as it amends section ten of the Housing (Additional Powers) Act, 1919.
10 & 11 Geo. 5 c. 76.	The Agriculture Act, 1920.	Section thirty-two.
11 & 12 Geo.5. c. 33.	The Housing (Scotland) Act, 1921.	The whole Act.
12 & 13 Geo.5. c. 33.	The Public Works Loans Act, 1922.	Section four.
13 & 14 Geo. 5. c. 24.	The Housing, &c. Act, 1923.	Sections five, seven to thirteen, fifteen, and seventeen. Subsections (1), (2) and (3) (except so far as they relate to the unrepealed provisions of the Act) and subsections (4), (8) to (12), (14), (15) and (17) of section twenty-three. First Schedule. Second Schedule, except so far as it amends section fifty-nine of the Housing, Town Planning, &c. Act, 1909.

6TH SCH. —*cont.*

Session and Chapter.	Short Title.	Extent of Repeal.
14 & 15 Geo. 5. c. 35.	The Housing (Financial Provisions) Act, 1924.	Section twelve and subsection (3) of section sixteen. The Second Schedule so far as it amends section five of the Housing, &c., Act, 1923.

CHAPTER 16.

Repealed by the Town and Country Planning Act 1932 (c. 48)

An Act to consolidate the enactments relating to town planning in England and Wales.

[9th April 1925.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

Town planning schemes.

1.—(1) A town planning scheme may be made in accordance with the provisions of this Act as respects any land which is in course of development or appears likely to be used for building purposes, with the general object of securing proper sanitary conditions, amenity, and convenience in connection with the laying out and use of the land, and of any neighbouring lands :

Provided that, where a piece of land already built upon or a piece of land not likely to be used for building purposes is so situate with respect to any land likely to be used for building purposes that the general object of the scheme would be better secured by its inclusion in any town planning scheme made with respect to the last-mentioned land, the scheme may include such piece of land as aforesaid, and may provide for the demolition or alteration of any buildings thereon so far as may be necessary for carrying the scheme into effect.

(2) Where it appears to the Minister of Health (hereinafter referred to as the Minister) that on account of the special architectural, historic or artistic interest

attaching to a locality it is expedient that with a view to preserving the existing character and to protecting the existing features of the locality, a town planning scheme should be made with respect to any area comprising that locality, the Minister may, notwithstanding that the land or any part thereof is already developed, authorise a town planning scheme to be made with respect to that area prescribing the space about buildings, or limiting the number of buildings to be erected, or prescribing the height or character of buildings, and, subject as aforesaid, the provisions of this Act shall apply accordingly.

(3) The expression "land likely to be used for building purposes" shall include any land likely to be used as, or for the purpose of providing, open spaces, roads, streets, parks, pleasure or recreation grounds, or for the purpose of executing any work upon or under the land incidental to a town planning scheme, whether in the nature of a building work or not, and the decision of the Minister, whether land is likely to be used for building purposes or not, shall be final and conclusive.

Power of local authorities to prepare or adopt town planning schemes.

2.—(1) A local authority may by resolution decide—

(*a*) to prepare a town planning scheme with reference to any land within, or in the neighbourhood of, their area in regard to which a scheme may be made under this Act; or

(*b*) to adopt, with or without any modifications, any town planning scheme proposed by all or any of the owners of any land with respect to which the local authority are themselves by this Act authorised to prepare a scheme:

Provided that—

(i) if any such resolution of a local authority extends to land not within the area of that local authority, the resolution shall not have effect until it is approved by the Minister, and the Minister may, in giving his approval, vary the extent of the land to be included within the area of the proposed town planning scheme; and

(ii) where any local authorities are desirous of acting jointly in the preparation or adoption of a town planning scheme, they may concur

in appointing out of their respective bodies a joint committee for the purpose, and in conferring with or without restrictions on any such committee any powers which the appointing councils might exercise for the purpose, and the provisions of sections fifty-seven and fifty-eight of the Local Government Act, 1894, in regard to joint committees, shall, with the necessary modifications, apply to any joint committee so appointed. 56 & 57 Vict. c. 73.

(2) A town planning scheme prepared or adopted by a local authority shall not have effect unless it is approved by order of the Minister, and the Minister may refuse to approve any scheme except with such modifications and subject to such conditions as he thinks fit to impose.

(3) A town planning scheme, when approved by the Minister, shall have effect as if it were enacted in this Act.

(4) A town planning scheme may be varied or revoked by a subsequent scheme prepared or adopted and approved in accordance with this Act, or in manner provided by regulations made by the Minister under this Act, and the Minister, on the application of the responsible authority, or of any other person appearing to him to be interested, may by order revoke a town planning scheme if he thinks that under the special circumstances of the case the scheme should be so revoked.

Duty of certain councils to prepare town planning schemes.

3.—(1) The council of every borough or other urban district containing a population, according to the census taken in the year nineteen hundred and twenty-one, of more than twenty thousand shall, before the first day of January, nineteen hundred and twenty-nine, prepare and submit to the Minister a town planning scheme in respect of all land within the borough or urban district in respect of which a town planning scheme may be made under this Act.

(2) Without prejudice to the powers of the council under this Act, every scheme to which this section applies shall deal with such matters as may be determined by regulations to be made by the Minister.

(3) Every regulation so made shall be laid before both Houses of Parliament as soon as may be after it is made, and, if an address is presented by either House within twenty-one days on which that House has sat next after any such regulation is laid before it praying that the regulation may be annulled, His Majesty in Council may annul the regulation, but without prejudice to the validity of anything previously done thereunder.

Development of estates pending preparation of town planning schemes.

4. The Minister may by special or general order provide that where a resolution to prepare or adopt a town planning scheme has been passed, or where before the thirty-first day of July nineteen hundred and nineteen, or by virtue of any of the provisions of this Act, the preparation, adoption or making of a town planning scheme has been authorised, the development of estates and building operations may be permitted to proceed pending the preparation, adoption or making and approval of the town planning scheme, subject to such conditions as may be prescribed by the order.

Contents of town planning schemes.

5.—(1) The Minister may prescribe a set of general provisions (or separate sets of general provisions adapted for areas of any special character) for carrying out the general objects of town planning schemes, and in particular for dealing with the matters set out in the First Schedule to this Act, and the general provisions, or set of general provisions appropriate to the area for which a town planning scheme is made, shall take effect as part of every scheme, except so far as provision is made by the scheme as approved by the Minister for the variation or exclusion of any of those provisions.

(2) Special provisions shall in addition be inserted in every town planning scheme—

(*a*) defining in such manner as may be prescribed by regulations under this Act the area to which the scheme is to apply; and

(*b*) defining the authority who are to be responsible for enforcing the observance of the scheme, and for the execution of any works which under the scheme or this Act are to be executed by a local authority (in this Act referred to as the responsible authority); and

(*c*) providing for any matters which may be dealt with by general provisions, and otherwise supplementing, excluding, or varying the general provisions, and also for dealing with any special

circumstances or contingencies for which adequate provision is not made by the general provisions; and

(*d*) providing for the suspension, so far as necessary for the proper carrying out of the scheme, of any statutory enactments, byelaws, regulations, or other provisions, under whatever authority made, which are in operation in the area included in the scheme.

(3) Where land included in a town planning scheme is in the area of more than one local authority, or is in the area of a local authority by whom the scheme was not prepared, the responsible authority may be one of those local authorities, or for certain purposes of the scheme one local authority and for certain purposes another local authority, or a joint body constituted specially for the purpose by the scheme, and all necessary provisions may be made by the scheme for constituting the joint body and giving them the necessary powers and duties:

Provided that, except with the consent of the London County Council, no other local authority shall, as respects any land in the administrative county of London, prepare or be responsible for enforcing the observance of a town planning scheme under this Act, or for the execution of any works which under the scheme or this Act are to be executed by a local authority.

(4) All general provisions made under this Act shall be laid as soon as may be before Parliament, and the Rules Publication Act, 1893, shall apply to such provisions as if they were statutory rules within the meaning of section one of that Act. 56 & 57 Vict. c. 66.

Procedure regulations of the Minister.

6.—(1) The Minister may make regulations for regulating generally the procedure to be adopted—

(*a*) with respect to the preparation or adoption of a town planning scheme; and

(*b*) with respect to obtaining the approval of the Minister to a scheme so prepared or adopted; and

(*c*) with respect to the variation or revocation of a scheme; and

(*d*) with respect to any inquiries, reports, notices, or other matters required in connection with the preparation or adoption or the approval of the scheme or preliminary thereto, or in relation to the carrying out of the scheme or enforcing the observance of the provisions thereof, or the variation or revocation of the scheme.

(2) Provision shall be made by those regulations—

(*a*) for securing co-operation on the part of the local authority with the owners and other persons interested in the land proposed to be included in the scheme, by such means as may be provided by the regulations;

(*b*) for securing that notice of the proposal to prepare or adopt a scheme should be given at the earliest stage possible to any council interested in the land;

(*c*) for securing that the council of the county in which any land proposed to be included in a scheme is situated shall be furnished with a notice of any proposal to prepare or adopt such a scheme and with a copy of the draft scheme before the scheme is made, and shall be entitled to be heard at any public local inquiry held by the Minister in regard to the scheme;

(*d*) for securing that a local authority after passing a resolution to prepare or adopt a scheme shall proceed with all reasonable speed with the preparation or adoption of the scheme, and shall comply with any regulations as to steps to be taken for that purpose, including provisions enabling the Minister in the case of default or dilatoriness on the part of the local authority to act in the place and at the expense of the local authority; and

(*e*) for dealing with the other matters mentioned in the Second Schedule to this Act.

Power to enforce scheme.

7.—(1) The responsible authority may at any time, after giving such notice as may be provided by a town

planning scheme and in accordance with the provisions of the scheme—

(*a*) remove, pull down, or alter any building or other work in the area included in the scheme which is such as to contravene the scheme, or in the erection or carrying out of which any provision of the scheme has not been complied with; or

(*b*) execute any work which it is the duty of any person to execute under the scheme in any case where it appears to the authority that delay in the execution of the work would prejudice the efficient operation of the scheme.

(2) Any expenses incurred by a responsible authority under this section may be recovered from the persons in default in such manner and subject to such conditions as may be provided by the scheme.

(3) If any question arises whether any building or work contravenes a town planning scheme, or whether any provision of a town planning scheme is not complied with in the erection or carrying out of any such building or work, that question shall be referred to the Minister, and shall, unless the parties otherwise agree, be determined by the Minister as arbitrator, and the decision of the Minister shall be final and conclusive.

Acquisition of land comprised in a scheme.

8.—(1) The responsible authority may, for the purpose of a town planning scheme, purchase any land comprised in such scheme by agreement, or be authorised to purchase any such land compulsorily in manner hereinafter provided.

(2) Land may be purchased by agreement for the purposes aforesaid in like manner as if those purposes were purposes of the Public Health Act, 1875, and sections one hundred and seventy-five to one hundred and seventy-eight of that Act so far as they relate to purchase of land by agreement shall apply accordingly, and shall for the purposes of this Act extend to London as if the London County Council were a local authority in the said sections mentioned.

38 & 39 Vict. c. 55.

(3) The responsible authority may be authorised to purchase land compulsorily for the purposes aforesaid by

means of an order submitted to the Minister, and confirmed by him in accordance with Part I. of the Third Schedule to this Act.

(4) The responsible authority may, with the consent of and subject to any conditions imposed by the Minister, acquire by agreement land comprised in a town planning scheme, notwithstanding that the land is not immediately required for the purposes of the scheme.

(5) Where land included within the area of a local authority is comprised in a town planning scheme, and the local authority are not the responsible authority, the local authority may purchase or be authorised to purchase that land in the same manner as the responsible authority.

(6) The powers of acquiring land under this section shall be subject to the restrictions contained in Part II. of the said Schedule.

Payment of purchase or compensation money (which would otherwise be paid into court) on direction of Minister.

9.—(1) Any purchase money or compensation payable in pursuance of this Act by a responsible or other local authority in respect of any land, or interest of another local authority which would, but for this section, be paid into court in manner provided by the Lands Clauses Acts may, if the Minister consents, instead of being paid into court, be paid and applied as the Minister may determine.

(2) Any such decision of the Minister as to the payment and application of any such purchase money or compensation shall be final and conclusive.

Compensation in respect of property injuriously affected by scheme, &c.

10.—(1) Any person whose property is injuriously affected by the making of a town planning scheme shall, if he makes a claim for the purpose within the time (if any) limited by the scheme, not being less than three months after the date when notice of the approval of the scheme is published in the manner prescribed by regulations made by the Minister, be entitled to obtain compensation in respect thereof from the responsible authority.

(2) A person shall not be entitled to obtain compensation under this section on account of any building erected on, or contract made or other thing done with respect to, land included in a scheme, after the date of the resolution of the local authority to prepare or adopt the scheme, or after the date when such resolution

takes effect, or after the date when the Minister has authorised a scheme to be made by virtue of any power conferred on him for that purpose by this Act (as the case may be), or, in cases where before the thirty-first day of July nineteen hundred and nineteen the preparation or adoption of a town planning scheme was authorised, after the date on which the application for authority to prepare or adopt the scheme was made, or after such other time as the Minister may fix for the purpose:

Provided that—

(*a*) this provision shall not apply as respects any work done before the date of the approval of the scheme for the purpose of finishing a building begun or of carrying out a contract entered into before such date or other time as aforesaid;

(*b*) this provision shall not apply as respects any building erected, contract made, or other thing done in accordance with a permission granted in pursuance of an order of the Minister allowing the development of estates and building operations to proceed pending the preparation, adoption or making and approval of the scheme, and the carrying out of works so permitted shall not prejudice any claim of any person to compensation in respect of property injuriously affected by the making of the scheme;

(*c*) after any enactment providing for the registration of local land charges comes into force this provision shall not affect a purchaser of the land unless the resolution, if required to be registered under such enactment as a local land charge, has been so registered.

(3) Where, by the making of any town planning scheme, any property is increased in value, the responsible authority, if they make a claim for the purpose within the time (if any) limited by the scheme (not being less than three months after the date when notice of the approval of the scheme is first published in the manner prescribed by regulations made by the Minister), shall be entitled to recover from any person whose property is so increased in value one-half of the amount of that increase.

(4) Any question as to whether any property is injuriously affected or increased in value within the meaning of this section, and as to the amount and manner of payment (whether by instalments or otherwise) of the sum which is to be paid as compensation under this section or which the responsible authority are entitled to recover from a person whose property is increased in value, shall be determined by arbitration under and in accordance with the Acquisition of Land (Assessment of Compensation) Act, 1919, unless the parties agree on some other method of determination.

9 & 10 Geo. 5. c. 57.

(5) Any amount due under this section as compensation to a person aggrieved from a responsible authority, or to a responsible authority from a person whose property is increased in value, may be recovered summarily as a civil debt.

(6) Where a town planning scheme is revoked by an order of the Minister under this Act, any person who has incurred expenditure for the purpose of complying with the scheme shall be entitled to compensation in accordance with this section in so far as any such expenditure is rendered abortive by reason of the revocation of the scheme.

(7) For the purposes of this section "purchaser" means any person (including a mortgagee or lessee) who for valuable consideration takes any interest in land.

Exclusion or limitation of compensation in certain cases.

11.—(1) Where property is alleged to be injuriously affected by reason of any provisions contained in a town planning scheme, no compensation shall be paid in respect thereof if or so far as the provisions are also contained in any public general or local Act, or Order having the force of an Act of Parliament, in force in the area, or are such as would have been enforceable if they had been contained in byelaws made by the local authority.

(2) Property shall not be deemed to be injuriously affected by reason of the making of any provisions inserted in a town planning scheme, which prescribe the space about buildings or limit the number of buildings to be erected, or prescribe the height or character of buildings, and which the Minister, having regard to the nature and situation of the land affected by the provisions, considers reasonable for the purpose.

(3) Where a person is entitled to compensation under this Act in respect of any matter or thing, and he would be entitled to compensation in respect of the same matter or thing under any other enactment, he shall not be entitled to compensation in respect of that matter or thing both under this Act and under that other enactment, and shall not be entitled to any greater compensation under this Act than he would be entitled to under the other enactment.

Notice to withdraw or modify provisions of scheme

12.—(1) The responsible authority may, at any time within one month after the date of an award of compensation in respect of property injuriously affected by the making of a town planning scheme, give notice to the owner of that property of their intention to withdraw or modify all or any of the provisions of the scheme which gave rise to the claim for compensation.

(2) Where such notice has been given, the responsible authority shall, within three months from the date of the notice, submit for the Minister's approval a varying scheme carrying into effect such withdrawal or modification as aforesaid, and upon approval by the Minister of the varying scheme, whether with or without modification, and payment by the authority of the owner's costs of and in connection with the arbitration, the award of the arbitrator shall be discharged without prejudice, however, to the right of the owner to make a further claim for compensation in respect of the said scheme as varied.

(3) No award of compensation in respect of property injuriously affected by the making of a town planning scheme shall be enforceable within one month from the date thereof, or, if notice has been given by the authority under the preceding subsection, pending the Minister's decision on the varying scheme.

Power of Minister to require preparation of town planning scheme.

13.—(1) Where the Minister is satisfied, after holding a public local inquiry, that a town planning scheme ought to be made by a local authority as respects any land in regard to which a town planning scheme may be made under this Act, the Minister may by order require the local authority to prepare and submit for his approval such a scheme, and, if the scheme is approved by the Minister, to do all things necessary for enforcing

the observance of the scheme or any provisions thereof effectively, and for executing any works which, under the scheme or under this Act, the authority are required to execute.

(2) Any order made by the Minister under this section shall have the same effect as a resolution of the local authority deciding to prepare a town planning scheme in respect of the area in regard to which the order is made.

(3) If the local authority fail to prepare a scheme to the satisfaction of the Minister within such time as may be prescribed by the order, or to enforce the observance of the scheme or any provisions thereof effectively, or to execute any such works as aforesaid, the Minister may himself act, or in the case of a borough or other urban district the population of which is less than twenty thousand, or of a rural district, may, if the Minister thinks fit, by order, empower the county council to act in the place and at the expense of the local authority.

Power of Minister in case of default of local authority to adopt or execute town planning scheme.

14.—(1) If the Minister is satisfied on any representation, after holding a public local inquiry, that a local authority have failed to adopt any scheme proposed by owners of any land in a case where the scheme ought to be adopted, the Minister may order the local authority to adopt the scheme proposed, or in lieu of making such an order as aforesaid, may approve the proposed scheme, subject to such modifications or conditions, if any, as the Minister thinks fit, and thereupon the scheme shall have effect as if it had been adopted by the local authority and approved by the Minister.

(2) If the Minister is satisfied on any representation, after holding a public local inquiry, that a responsible authority have failed to enforce effectively the observance of a scheme which has been approved, or any provisions thereof, or to execute any works which under the scheme or this Act the authority are required to execute, the Minister may order that authority to do all things necessary for enforcing the observance of the scheme or any provisions thereof effectively, or for executing any works which under the scheme or this Act the authority are required to execute.

(3) Any order under this section may be enforced by mandamus.

Power of Minister to order local authority to consent to modifications and conditions.

15.—(1) Where the Minister has refused to approve a town planning scheme prepared or adopted by a local authority, except with certain modifications or subject to certain conditions, and the Minister on any representation is satisfied after holding a public local inquiry that the local authority have unreasonably refused to consent to the modifications or conditions so imposed by the Minister, the Minister may order the local authority to consent to the modifications or conditions so imposed.

(2) An order under this section may be enforced by mandamus.

Acquisition of land for purpose of garden cities.

16.—(1) Where the Minister is satisfied that any local authority (including a county council) or two or more local authorities jointly, or any authorised association, are prepared to purchase and develop, in accordance with a scheme approved by the Minister—

(*a*) any land as a garden city (including a garden suburb or garden village);

(*b*) any land in regard to which a town planning scheme may be made;

and have funds available for the purpose, he may, with the consent of the Treasury and after consultation with the Board of Trade, the Minister of Agriculture and Fisheries, and the Minister of Transport, acquire that land on behalf of the authority or association either by compulsion or by agreement in any case in which it appears to him necessary or expedient so to do for the purpose of securing the development of the land as aforesaid, and may do all such things as may be necessary to vest the land so acquired in the local authority or association.

(2) The provisions of this Act relating to the powers of a local authority to acquire land for the purposes of a town planning scheme, shall apply for the purpose of the acquisition of land by the Minister under this section, and the Minister in exercising his powers of acquiring land under this section shall be subject to the same conditions as are applicable to the acquisition of land under this Act by a local authority:

Provided that, in the case of an order for the compulsory acquisition of land on behalf of an authorised association, the order shall be laid before each House of Parliament and shall not be confirmed by the Minister unless and until both Houses by resolution have approved the order, nor, if any modifications are agreed to by both Houses, otherwise than as so modified.

(3) A local authority shall have power to acquire land for the purposes of a scheme approved by the Minister under this section, and to develop any land so acquired in accordance with the scheme.

(4) Subject to such conditions as the Treasury may prescribe and up to an amount approved by the Treasury, the Public Works Loan Commissioners may advance by way of loan to any authorised association such money as the association may require for the purpose of developing the garden city in accordance with a scheme approved by the Minister under this section, and the provisions of the Housing Act, 1925, with respect to loans by those Commissioners to a public utility society for the purpose of the purchase and development of land under Part III. of that Act shall, subject to the provisions of this section, apply to advances made in pursuance of this subsection.

15 Geo. 5. c. 14.

The power to make advances under this subsection shall be exercised during such a period as the Treasury may prescribe.

(5) In this section "authorised association" means any society, company or body of persons approved by the Minister whose objects include the promotion, formation, or management of garden cities (including garden suburbs and garden villages), and the erection, improvement or management of buildings for the working classes and others, which does not trade for profit or whose constitution forbids the issue of any share or loan capital with interest or dividend exceeding the rate for the time being prescribed by the Treasury; and any authorised association shall have power, notwithstanding anything in its rules or constitution prohibiting the payment of interest on loan capital at a rate exceeding six per centum per annum, to raise money on loan at a rate of interest not exceeding the rate for the time being prescribed by the Treasury.

Determination of matters by Minister.

17. Where the Minister is authorised by this Act or any scheme made under this Act or any enactment thereby repealed to determine any matter, it shall, except as otherwise expressly provided by this Act, be at his option to determine the matter as arbitrator or otherwise, and, if he elects or is required to determine the matter as arbitrator, the provisions of the Regulation of Railways Act, 1868, respecting arbitrations by the Board of Trade, and the enactments amending those provisions, shall apply as if they were herein re-enacted and in terms made applicable to the Minister and the determination of the matters aforesaid.

31 & 32 Vict. c. 119.

Local inquiries.

18.—(1) For the purposes of the execution of his powers and duties under this Act, the Minister may cause such local inquiries to be held as he may think fit, and the costs incurred in relation to any such local inquiry shall be paid by the authorities and persons concerned in the inquiry, or by such of them and in such proportions as the Minister may direct, and the Minister may certify the amount of the costs incurred, and any sum so certified and directed by the Minister to be paid by any authority or person shall be a debt to the Crown from such authority or person.

(2) Sections two hundred and ninety-three to two hundred and ninety-six and section two hundred and ninety-eight of the Public Health Act, 1875, shall apply for the purpose of any order to be made by the Minister or any local inquiry which he may cause to be held in pursuance of this Act.

Provisions as to land in neighbourhood of royal palaces and parks.

19.—(1) Where any land proposed to be included in a town planning scheme, or any land proposed to be acquired under this Act, is situate within the prescribed distance from any of the royal palaces or parks, the local authority shall, before preparing the scheme or acquiring the land, communicate with the Commissioners of Works, and the Minister shall, before confirming the scheme or authorising the acquisition of the land or the raising of any loan for the purpose, take into consideration any recommendations he may have received from the Commissioners of Works with reference to the proposal.

(2) For the purposes of this section, "prescribed" means prescribed by regulations made by the Minister after consultation with the Commissioners of Works.

Definition of local authority, and expenses.

20.—(1) For the purposes of this Act, the expression "local authority" means—

(*a*) as respects the administrative county of London the London County Council; and

(*b*) elsewhere the council of the borough or urban or rural district.

(2) Any expenses incurred by the London County Council under this Act or any scheme made under this Act or any enactment thereby repealed, including the cost of the preparation or adoption of a scheme, shall be defrayed out of the general county rate and any money may be borrowed by the Council in the same manner as money may be borrowed for general county purposes.

(3) Any expenses incurred by the council of a borough or urban or rural district under this Act, or any scheme made under this Act or any enactment thereby repealed, shall be defrayed as expenses of the council under the Public Health Acts, 1875 to 1907, and the authority may borrow, for the purposes of this Act, or any such scheme, including the cost of the preparation or adoption of a scheme, in the same manner and subject to the same provisions as they may borrow for the purposes of the Public Health Acts, 1875 to 1907.

(4) Money borrowed for the purposes of this Act, or any scheme made under this Act or any enactment thereby repealed, shall not be reckoned as part of the debt of a borough or urban district for the purposes of the limitation on borrowing under subsections (2) and (3) of section two hundred and thirty-four of the Public Health Act, 1875.

Repeals.

21.—(1) The enactments mentioned in the Fourth Schedule to this Act are, so far as they apply to England and Wales, hereby repealed to the extent specified in the third column of that schedule:

Provided that—

(*a*) nothing in this repeal shall affect any scheme, order or regulation made, or notice or approval given under any enactment hereby repealed, but any such scheme, order, regulation, approval or notice shall have effect

as if made or given under the corresponding provision of this Act and may be amended, varied, repealed, revoked, or enforced accordingly;

(*b*) any document referring to any Act or enactment so repealed shall be construed as referring to this Act or the corresponding enactment in this Act.

(2) The mention of particular matters in this section shall not be held to prejudice or affect the general application of section thirty-eight of the Interpretation Act, 1889, with regard to the effect of repeals. 52 & 53 Vict. c. 63.

Short title, commencement and extent.

22.—(1) This Act may be cited as the Town Planning Act, 1925.

(2) This Act shall come into operation on the first day of July, nineteen hundred and twenty-five.

(3) This Act shall not extend to Scotland or Northern Ireland.

SCHEDULES.

FIRST SCHEDULE.

Section 5.

MATTERS TO BE DEALT WITH BY GENERAL PROVISIONS PRESCRIBED BY THE MINISTER.

1. Streets, roads, and other ways, and stopping up or diversion of existing highways.
2. Buildings, structures, and erections.
3. Open spaces, private and public.
4. The preservation of objects of historical interest or natural beauty.
5. Sewerage, drainage, and sewage disposal.
6. Lighting.
7. Water supply.
8. Ancillary or consequential works.
9. Extinction or variation of private rights of way and other easements.
10. Dealing with or disposal of land acquired by the responsible authority or by a local authority.

1ST SCH. —*cont.*

11. Power of entry and inspection.

12. Power of the responsible authority to remove, alter, or demolish any obstructive work.

13. Power of the responsible authority to make agreements with owners, and of owners to make agreements with one another.

14. Power of the responsible authority or a local authority to accept any money or property for the furtherance of the objects of any town planning scheme, and provision for regulating the administration of any such money or property and for the exemption of any assurance with respect to money or property so accepted from enrolment under the Mortmain and Charitable Uses Act, 1888.

15. Application with the necessary modifications and adaptations of statutory enactments.

16. Carrying out and supplementing the provisions of this Act for enforcing schemes.

17. Limitation of time for operation of scheme.

18. Co-operation of the responsible authority with the owners of land included in the scheme or other persons interested.

19. Charging on the inheritance of any land the value of which is increased by the operation of a town planning scheme the sum required to be paid in respect of that increase, and for that purpose applying, with the necessary adaptations, the provisions of any enactments dealing with charges for improvements of land.

Section 6.

SECOND SCHEDULE.

MATTERS TO BE DEALT WITH BY REGULATIONS OF THE MINISTER.

1. Procedure anterior to the preparation or adoption of scheme :—

(*a*) Preparation and deposit of plans.

(*b*) Publication of notices.

2. Procedure during, on, and after the preparation or adoption and before the approval of the scheme :—

(*a*) Submission to the Minister of the proposed scheme, with plans and estimates.

(*b*) Notice of submission of proposed scheme to the Minister.

(*c*) Hearing of objections and representations by persons affected, including persons representing architectural or

archæological societies or otherwise interested in the amenity of the proposed scheme. 2nd Sch. —*cont.*

(*d*) Publication of notice of intention to approve scheme and the lodging of objections thereto.

3. Procedure after the approval of the scheme :—

(*a*) Notice to be given of approval of scheme.

(*b*) Inquiries and reports as to the beginning and the progress and completion of works, and other action under the scheme.

4. Duty, at any stage, of the local authority to publish or deposit for inspection any scheme or proposed scheme, and the plans relating thereto, and to give information to persons affected with reference to any such scheme or proposed scheme.

5. The details to be specified in plans, including, wherever the circumstances so require, the restrictions on the number of buildings which may be erected on each acre, and the height and character of those buildings.

THIRD SCHEDULE.

Section 8.

Part I.

Provisions as to the Compulsory Acquisition of Land.

1. Where a local authority propose to purchase land compulsorily, the local authority may submit to the Minister an order putting in force as respects the land specified in the order the provisions of the Lands Clauses Acts with respect to the purchase and taking of land otherwise than by agreement.

2. An order under this schedule shall be of no force unless and until it is confirmed by the Minister, and the Minister may confirm the order either without modification or subject to such modifications as he thinks fit, and an order when so confirmed shall, save as otherwise expressly provided by this schedule, become final and have effect as if enacted in this Act; and the confirmation by the Minister shall be conclusive evidence that the requirements of this Act have been complied with, and that the order has been duly made and is within the powers of this Act.

3. The order shall be in the form prescribed by the Minister, and shall contain such provisions as the Minister may prescribe for the purpose of carrying the order into effect, and of protecting the local authority and the persons interested in the land, and shall incorporate, subject to the necessary adaptations—

(*a*) the Lands Clauses Acts (except section one hundred and twenty-seven of the Lands Clauses Consolidation

3RD SCH. —*cont.*

Act, 1845) as modified by the Acquisition of Land (Assessment of Compensation) Act, 1919; and

(*b*) sections seventy-seven to eighty-five of the Railways Clauses Consolidation Act, 1845.

4. The order shall be published by the local authority in the manner prescribed by the Minister, and such notice shall be given both in the locality in which the land is proposed to be acquired, and to the owners, lessees, and occupiers of that land as may be prescribed by the Minister.

5. If within such period as may be prescribed by the Minister no objection to the order has been presented to the Minister by a person interested in the land, or if every such objection has been withdrawn, the Minister shall, without further enquiry, confirm the order, unless he is of opinion that the land is unsuited for the purpose for which it is proposed to be acquired, but, if such an objection has been presented and has not been withdrawn, the Minister shall forthwith cause a public inquiry to be held in the locality in which the land is proposed to be acquired, and the local authority and all persons interested in the land and such other persons as the person holding the inquiry in his discretion thinks fit to allow shall be permitted to appear and be heard at the inquiry, and the Minister shall, before confirming the order, duly consider the report of the person by whom a public inquiry is held.

6. In construing for the purposes of this schedule or any order made thereunder, any enactment incorporated with the order, this Act together with the order shall be deemed to be the special Act, and the local authority shall be deemed to be the promoters of the undertaking.

7. Where the land is glebe land or other land belonging to an ecclesiastical benefice, the order shall provide that sums agreed upon or awarded for the purchase of the land, or to be paid by way of compensation for the damage to be sustained by the owner by reason of severance or other injury affecting the land, shall not be paid as directed by the Lands Clauses Acts, but shall be paid to the Ecclesiastical Commissioners to be applied by them as money paid to them upon a sale, under the provisions of the Ecclesiastical Leasing Acts, of land belonging to a benefice.

8. The reference to sections seventy-eight to eighty-five of the Railways Clauses Consolidation Act, 1845, shall be construed as a reference to those sections as originally enacted and not as a reference to the provisions which by virtue of the Mines (Working Facilities and Support) Act, 1923, are in certain cases to be substituted for those sections.

3rd Sch. —*cont.*

Part II.

Restrictions on Acquisition of Land.

1. Nothing in this Act shall authorise the acquisition for the purposes of any town planning scheme of any land which is the site of an ancient monument or other object of archæological interest.

2. Nothing in this Act shall authorise the compulsory acquisition of any land which is the property of any local authority or has been acquired by any corporation or company for the purposes of a railway, dock, canal, water or other public undertaking, or which, at the date of the order authorising the compulsory acquisition of the land, forms part of any park, garden, or pleasure ground, or is otherwise required for the amenity or convenience of any house.

3.—(1) Where any scheme or order under this Act authorises the acquisition or appropriation of any land forming part of any common, open space, or allotment, the scheme or order, so far as it relates to the acquisition or appropriation of such land, shall be provisional only, and shall not have effect unless and until it is confirmed by Parliament, except where the scheme or order provides for giving in exchange for such land other land, not being less in area, certified by the Minister after consultation with the Minister of Agriculture and Fisheries to be equally advantageous to the persons, if any, entitled to commonable or other rights and to the public.

(2) Before giving any such certificate the Minister shall give public notice of the proposed exchange, and shall afford opportunities to all persons interested to make representations and objections in relation thereto, and shall, if necessary, hold a local inquiry on the subject.

(3) Where any such scheme or order authorises such an exchange, the scheme or order shall provide for vesting the land given in exchange in the persons in whom the common or open space was vested, subject to the same rights, trusts, and incidents as attached to the common or open space, and for discharging the part of the common, open space, or allotment acquired or appropriated from all rights, trusts, and incidents to which it was previously subject.

(4) For the purposes of this Part of this Schedule the expression " common " includes any land subject to be enclosed under the Inclosure Acts, 1845 to 1882, and any town or village

3RD SCH. —*cont.*

green; the expression "open space" means any land laid out as a public garden or used for the purposes of public recreation, and any disused burial ground; and the expression "allotment" means any allotment set out as a fuel allotment or a field garden allotment under an Inclosure Act.

Section 21.

FOURTH SCHEDULE.

ENACTMENTS REPEALED.

Session and Chapter.	Short Title.	Extent of Repeal.
9 Edw. 7. c. 44.	The Housing, Town Planning, &c. Act, 1909.	Part II. Part IV. so far as it relates to town planning. The Fourth Schedule. The Fifth Schedule.
9 & 10 Geo. 5. c. 35.	The Housing, Town Planning, &c. Act, 1919.	Part II. The Third Schedule.
9 & 10 Geo. 5. c. 99.	The Housing (Additional Powers) Act, 1919.	Section ten.
11 & 12 Geo. 5. c. 19.	The Housing Act, 1921	Section six so far as unrepealed by the Housing Act, 1924. Section seven.
13 & 14 Geo. 5. c. 24.	The Housing, &c. Act, 1923.	Part. II. The Second Schedule so far as it amends section 59 of the Housing, Town Planning, &c., Act, 1909.

CHAPTER 17.

An Act to consolidate the enactments relating to town planning in Scotland. [9th April 1925.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

Town planning schemes.

1.—(1) A town planning scheme may be made in accordance with the provisions of this Act with respect to any land which is in course of development or appears likely to be used for building purposes, with the general object of securing proper sanitary conditions, amenity, and convenience in connection with the laying out and use of the land, and of any neighbouring lands :

Provided that, where a piece of land already built upon or a piece of land not likely to be used for building purposes is so situate with respect to any land likely to be used for building purposes that the general object of the scheme would be better secured by its inclusion in any town-planning scheme made with respect to the last-mentioned land, the scheme may include such piece of land as aforesaid, and may provide for the demolition or alteration of any buildings thereon so far as may be necessary for carrying the scheme into effect.

(2) Where it appears to the Scottish Board of Health (hereinafter referred to as the Board) that on account of the special architectural, historic or artistic interest attaching to a locality it is expedient that with a view to preserving the existing character and to protecting the existing features of the locality a town planning scheme should be made with respect to any area comprising that locality, the Board may, notwithstanding that the land or any part thereof is already developed, authorise a town planning scheme to be made with respect to that area prescribing the space

about buildings, or limiting the number of buildings to be erected, or prescribing the height or character of buildings, and, subject as aforesaid, the provisions of this Act shall apply accordingly.

(3) The expression "land likely to be used for building purposes" shall include any land likely to be used as, or for the purpose of providing, open spaces, roads, streets, parks, pleasure or recreation grounds, or for the purpose of executing any work upon or under the land incidental to a town planning scheme, whether in the nature of a building work or not, and the decision of the Board, whether land is likely to be used for building purposes or not, shall be final and conclusive.

Power of local authorities to prepare or adopt town planning schemes.

2.—(1) A local authority may by resolution decide—

(*a*) to prepare a town planning scheme with respect to any land within, or in the neighbourhood of, their district in regard to which a scheme may be made under this Act; or

(*b*) to adopt, with or without any modifications, any town planning scheme proposed by all or any of the owners of any land with respect to which the local authority are themselves by this Act authorised to prepare a scheme:

Provided that—

(i) any such resolution shall be forthwith notified to the Board;

(ii) if any such resolution extends to land not within the district of the local authority, the resolution shall not have effect until it is approved by the Board, and the Board may, in giving their approval, vary the extent of the land to be included within the area of the proposed town planning scheme; and

(iii) where any local authorities are desirous of acting jointly in the preparation or adoption of a town-planning scheme, they may concur in appointing out of their respective bodies a joint committee for the purpose, and in conferring with or without restrictions on any such committee any powers which the

appointing local authorities might exercise for the purpose, and the provisions of section seventy-six of the Local Government (Scotland) Act, 1889 (which relates to the appointment of joint committees), shall, with the necessary modifications, apply to any joint committee so appointed. 52 & 53 Vict. c. 50.

(2) A town planning scheme prepared or adopted by a local authority shall not have effect, unless it is approved by order of the Board, and the Board may refuse to approve any scheme, except with such modifications and subject to such conditions as they think fit to impose.

(3) A town planning scheme, when approved by the Board, shall have effect as if it were enacted in this Act.

(4) A town planning scheme may be varied or revoked by a subsequent scheme prepared or adopted and approved in accordance with this Act, or in manner provided by regulations made by the Board under this Act, and the Board, on the application of the responsible authority or of any other person appearing to them to be interested, may by order revoke a town planning scheme if they think that under the special circumstances of the case the scheme should be so revoked.

Duty of local authority to prepare town planning scheme.

3.—(1) The council of every burgh containing a population, according to the census taken in the year nineteen hundred and twenty-one, of more than twenty thousand, and any other local authority, if required by the Board, shall, before the first day of January, nineteen hundred and twenty-nine, prepare and submit to the Board a town planning scheme with respect to all land within the district of such council or other local authority in regard to which a town planning scheme may be made under this Act.

(2) Without prejudice to the powers of the council or other local authority under this Act, every scheme to which this section applies shall deal with such matters as may be determined by regulations to be made by the Board.

Development of estates pending preparation of town planning schemes.

4. The Board may by special or general order provide that where a resolution to prepare or adopt a town planning scheme has been passed, or where before the nineteenth day of August nineteen hundred and nineteen, or by virtue of any of the provisions of this Act, the preparation, adoption or making of a town planning scheme has been authorised, the development of estates and building operations may be permitted to proceed pending the preparation, adoption or making and approval of the town planning scheme, subject to such conditions as may be prescribed by the order.

Contents of town planning schemes.

5.—(1) The Board may prescribe a set of general provisions (or separate sets of general provisions adapted for areas of any special character) for carrying out the general objects of town planning schemes, and in particular for dealing with the matters set out in the First Schedule to this Act, and the general provisions or set of general provisions appropriate to the area with respect to which a town planning scheme is made, shall take effect as part of every scheme, except so far as provision is made by the scheme as approved by the Board for the variation or exclusion of any of those provisions.

(2) Special provisions shall in addition be inserted in every town planning scheme—

(*a*) defining in such manner as may be prescribed by regulations under this Act the area to which the scheme is to apply; and

(*b*) defining the authority who are to be responsible for enforcing the observance of the scheme, and for the execution of any works which under the scheme or this Act are to be executed by a local authority (in this Act referred to as the responsible authority); and

(*c*) providing for any matters which may be dealt with by general provisions, and otherwise supplementing, excluding, or varying the general provisions, and also for dealing with any special circumstances or contingencies for which adequate provision is not made by the general provisions; and

(*d*) providing for the suspension, so far as necessary for the proper carrying out of the scheme, of any statutory enactments, byelaws, regulations, or other provisions, under whatever authority made, which are in operation in the area included in the scheme.

(3) Where land included in a town planning scheme is in the district of more than one local authority, or is in the district of a local authority by whom the scheme was not prepared, the responsible authority may be one of those local authorities, or for certain purposes of the scheme one local authority and for certain purposes another local authority, or a joint body constituted specially for the purpose by the scheme, and all necessary provisions may be made by the scheme for constituting the joint body and giving them the necessary powers and duties.

(4) All general provisions made under this Act shall be laid as soon as may be before Parliament, and the Rules Publication Act, 1893, shall apply to such provisions as if they were statutory rules within the meaning of section one of that Act, and as if the said section one applied to Scotland with the substitution of the Edinburgh Gazette for the London Gazette. 56 & 57 Vict. c. 66.

Procedure regulations of the Board.

6.—(1) The Board may make regulations for regulating generally the procedure to be adopted—

(*a*) with respect to the preparation or adoption of a town planning scheme; and

(*b*) with respect to obtaining the approval of the Board to a scheme so prepared or adopted; and

(*c*) with respect to the variation or revocation of a scheme; and

(*d*) with respect to any inquiries, reports, notices, or other matters required in connection with the preparation or adoption or the approval of the scheme or preliminary thereto or in relation to the carrying out of the scheme or enforcing the observance of the provisions

thereof or the variation or revocation of the scheme.

(2) Provision shall be made by those regulations—

(*a*) for securing co-operation on the part of the local authority with the owners and other persons interested in the land proposed to be included in the scheme by such means as may be provided by the regulations;

(*b*) for securing that notice of the proposal to prepare or adopt a scheme should be given at the earliest stage possible to any council interested in the land;

(*c*) for securing that the council of the county in which any land proposed to be included in a town planning scheme is situated shall be furnished with a notice of any proposal to prepare or adopt such a scheme and with a copy of the draft scheme before the scheme is made, and shall be entitled to be heard at any public local inquiry held by the Board in regard to the scheme;

(*d*) for securing that a local authority after passing a resolution to prepare or adopt a scheme shall proceed with all reasonable speed with the preparation or adoption of the scheme, and shall comply with any regulations as to steps to be taken for that purpose, including provisions enabling the Board in the case of default or dilatoriness on the part of the local authority to act in the place and at the expense of the local authority; and

(*e*) for dealing with the other matters mentioned in the Second Schedule to this Act.

(3) Every regulation made under this Act shall be laid before both Houses of Parliament as soon as may be after it is made, and, if an address is presented by either House within twenty-one days from the date on which that House has sat next after any such regulation is laid before it praying that the regulation may be annulled, His Majesty in Council may annul the regula-

tion, but without prejudice to the validity of anything previously done thereunder.

Power to enforce scheme.

7.—(1) The responsible authority may at any time after giving such notice as may be provided by a town planning scheme and in accordance with the provisions of the scheme—

(*a*) remove, pull down, or alter any building or other work in the area included in the scheme which is such as to contravene the scheme, or in the erection or carrying out of which any provision of the scheme has not been complied with; or

(*b*) execute any work which it is the duty of any person to execute under the scheme in any case where it appears to the authority that delay in the execution of the work would prejudice the efficient operation of the scheme.

(2) Any expenses incurred by a responsible authority under this section may be recovered from the persons in default in such manner and subject to such conditions as may be provided by the scheme.

(3) If any question arises whether any building or work contravenes a town planning scheme, or whether any provision of a town planning scheme is not complied with in the erection or carrying out of any such building or work, that question shall be referred to the Board, and shall, unless the parties otherwise agree, be determined by the Board as arbiters, and the decision of the Board shall be final and conclusive.

Acquisition of land comprised in a scheme.

8.—(1) The responsible authority may, for the purposes of a town planning scheme, purchase any land comprised in such scheme by agreement, or be authorised to purchase any such land compulsorily in manner hereinafter provided.

(2) Land may be purchased by agreement for the purposes aforesaid in like manner as if those purposes were purposes of the Public Health (Scotland) Act, 1897, and section one hundred and forty-four of that Act, so far as relating to the purchase of land by agreement, shall apply accordingly.

60 & 61 Vict. c. 38.

(3) The responsible authority may be authorised to purchase land compulsorily for the purposes aforesaid by means of an order submitted to the Board and confirmed by the Board in accordance with Part I. of the Third Schedule to this Act.

(4) The responsible authority may, with the consent of and subject to any conditions imposed by the Board, acquire by agreement land comprised in a town planning scheme, notwithstanding that the land is not immediately required for the purposes of the scheme.

(5) Where land included within the district of a local authority is comprised in a town planning scheme and the local authority are not the responsible authority, the local authority may purchase or be authorised to purchase that land in the same manner as the responsible authority.

(6) The powers of acquiring land under this section shall be subject to the restrictions contained in Part II. of the said Third Schedule.

Payment of purchase or compensation money on direction of Board.

9.—(1) Any purchase money or compensation payable in pursuance of this Act by a responsible authority or other local authority in respect of any lands, right or interest of another local authority which would, but for this section, be paid into bank in manner provided by the Lands Clauses Acts may, if the Board consent, instead of being paid into bank, be paid and applied as the Board determine.

(2) Any such decision of the Board as to the payment and application of any such purchase money or compensation shall be final and conclusive.

Compensation in respect of property injuriously affected by scheme, &c.

10.—(1) Any person whose property is injuriously affected by the making of a town planning scheme, or by the carrying into effect of any provision of a town planning scheme, shall, if he makes a claim for the purpose within the time (if any) limited by the scheme, not being less than three months after the date when notice of the approval of the scheme is published in the manner prescribed by regulations made by the Board, be entitled to obtain compensation in respect thereof from the responsible authority.

(2) A person shall not be entitled to obtain compensation under this section on account of any building

erected on, or contract made or other thing done with respect to, land included in a scheme, after the date of the resolution of the local authority to prepare or adopt the scheme, or after the date when such resolution takes effect, or after the date when the Board have authorised a scheme to be made by virtue of any power conferred on them for that purpose by this Act (as the case may be), or, in cases where before the nineteenth day of August, nineteen hundred and nineteen, the preparation or adoption of a town planning scheme was authorised, after the date on which the application for authority to prepare or adopt the scheme was made, or after such other time as the Board may fix for the purpose :

Provided that—

(*a*) this provision shall not apply as respects any work done before the date of the approval of the scheme for the purpose of finishing a building begun, or of carrying out a contract entered into, before such date or other time as aforesaid;

(*b*) this provision shall not apply as respects any building erected, contract made, or other thing done in accordance with a permission granted in pursuance of an order of the Board allowing the development of estates and building operations to proceed pending the preparation, adoption or making and approval of the scheme, and the carrying out of works so permitted shall not prejudice any claim of any person to compensation in respect of property injuriously affected by the making of the scheme.

(3) Where, by the making of any town planning scheme, any property is increased in value, the responsible authority, if they make a claim for the purpose within the time (if any) limited by the scheme (not being less than three months after the date when notice of the approval of the scheme is first published in the manner prescribed by regulations made by the Board), shall be entitled to recover from any person whose property is so increased in value one-half of the amount of that increase.

(4) Any question as to whether any property is injuriously affected or increased in value within the meaning of this section, and as to the amount and manner of payment (whether by instalments or otherwise) of the sum which is to be paid as compensation under this section, or which the responsible authority are entitled to recover from a person whose property is increased in value, shall be determined by arbitration under and in accordance with the Acquisition of Land (Assessment of Compensation) Act, 1919, unless the parties agree on some other method of determination.

9 & 10 Geo. 5. c. 57.

(5) Any amount due under this section as compensation to a person aggrieved from a responsible authority, or to a responsible authority from a person whose property is increased in value, may be recovered in a summary manner.

(6) Where a town planning scheme is revoked by an order of the Board under this Act, any person who has incurred expenditure for the purpose of complying with the scheme shall be entitled to compensation in accordance with this section in so far as any such expenditure is rendered abortive by reason of the revocation of the scheme.

Exclusion or limitation of compensation in certain cases.

11.—(1) Where property is alleged to be injuriously affected by reason of any provisions contained in a town planning scheme, no compensation shall be paid in respect thereof if or so far as the provisions are also contained in any public, general or local Act or Order having the force of an Act of Parliament in force in the area, or are such as would have been enforceable if they had been contained in byelaws made by the local authority.

(2) Property shall not be deemed to be injuriously affected by reason of the making of any provisions inserted in a town planning scheme, which prescribe the space about buildings or limit the number of buildings to be erected, or prescribe the height or character of buildings, and which the Board, having regard to the nature and situation of the land affected by the provisions, consider reasonable for the purpose.

(3) Where a person is entitled to compensation under this Act in respect of any matter or thing, and he would be entitled to compensation in respect of the same matter or thing under any other enactment, he shall not be entitled to compensation in respect of that matter or thing both under this Act and under that other enactment, and shall not be entitled to any greater compensation under this Act than he would be entitled to under the other enactment.

Notice to withdraw or modify provisions of scheme.

12.—(1) The responsible authority may, at any time within one month after the date of an award of compensation in respect of property injuriously affected by the making of a town planning scheme, give notice to the owner of that property of their intention to withdraw or modify all or any of the provisions of the scheme which gave rise to the claim for compensation.

(2) Where such notice has been given, the responsible authority shall, within three months from the date of the notice, submit for the approval of the Board a varying scheme carrying into effect such withdrawal or modification as aforesaid, and upon approval by the Board of the varying scheme, whether with or without modification, and payment by the authority of the owner's expenses of and in connection with the arbitration, the award of the arbiter shall be discharged without prejudice, however, to the right of the owner to make a further claim for compensation in respect of the said scheme as varied.

(3) No award of compensation in respect of property injuriously affected by the making of a town planning scheme shall be enforceable within one month from the date thereof, or, if notice has been given by the authority under the preceding subsection, pending the decision of the Board on the varying scheme.

Power of Board to require town planning scheme.

13.—(1) Where the Board are satisfied, after holding a public local inquiry, that a town planning scheme ought to be made by a local authority with respect to any land in regard to which a town planning scheme may be made under this Act, the Board may by order require the local authority to prepare and submit for their approval such a scheme, and, if the scheme is approved by the Board, to do all things necessary for

enforcing the observance of the scheme or any provisions thereof effectively and for executing any works which under the scheme or under this Act the authority are required to execute.

(2) Any order made by the Board under this section shall have the same effect as a resolution of the local authority deciding to prepare a town planning scheme with respect to the area in regard to which the order is made.

(3) If the local authority fail to prepare a scheme to the satisfaction of the Board within such time as may be prescribed by the order, or to enforce the observance of the scheme or any provisions thereof effectively, or to execute any such works as aforesaid, the Board may themselves act in the place and at the expense of the local authority.

Powers of Board in case of default of local authority to adopt or execute town planning scheme.

14. If the Board are satisfied on any representation, after holding a public local inquiry at which the authority concerned shall have had an opportunity of being heard—

(*a*) that a local authority have failed to adopt any scheme proposed by owners of any land in a case where the scheme ought to be adopted or have unreasonably refused to consent to any modifications or conditions imposed by the Board with respect to any scheme prepared or adopted by the local authority; or

(*b*) that a responsible authority have failed to enforce effectively the observance of a scheme which has been approved by the Board, or any provisions thereof, or to execute any works which under the scheme or this Act the authority are required to execute;

the Board may, with the approval of the Lord Advocate, apply by summary petition to either Division of the Court of Session, or during vacation or recess to the Lord Ordinary on the Bills, for an order on the authority to adopt the scheme, or to consent to the modifications or conditions so imposed, or to do all things necessary for enforcing the observance of the scheme or any provisions thereof effectively, or for executing any

works which under the scheme or this Act the authority are required to execute, as the case requires; and such Division or Lord Ordinary are hereby authorised and directed to do in such petition and to dispose of the expenses of the proceedings as to the said Division or Lord Ordinary shall appear to be just.

Acquisition of land for purpose of garden cities.

15.—(1) Where the Board are satisfied that any local authority (including a county council) or two or more local authorities jointly, or any authorised association, are prepared to purchase and develop, in accordance with a scheme approved by the Board—

(*a*) any land as a garden city (including a garden suburb or a garden village);

(*b*) any land in regard to which a town planning scheme may be made;

and have funds available for the purpose, the Board may, with the consent of the Treasury and after consultation with the Board of Trade, the Board of Agriculture for Scotland, and the Minister of Transport, acquire that land on behalf of the authority or association either by compulsion or by agreement in any case in which it appears to the Board necessary or expedient so to do for the purpose of securing the development of the land as aforesaid, and may do all such things as may be necessary to vest the land so acquired in the local authority or association.

(2) The provisions of this Act relating to the powers of a local authority to acquire land for the purposes of a town planning scheme shall apply for the purpose of the acquisition of land by the Board under this section, and the Board in exercising their powers of acquiring land under this section shall be subject to the same conditions as are applicable to the acquisition of land under this Act by a local authority:

Provided that, in the case of an order for the compulsory acquisition of land on behalf of an authorised association, the order shall be laid before each House of Parliament and shall not be confirmed by the Board unless and until both Houses by resolution have approved the order, nor, if any modifications are agreed to by both Houses, otherwise than as so modified.

(3) A local authority shall have power to acquire land for the purposes of a scheme approved by the Board under this section, and to develop any land so acquired in accordance with the scheme.

(4) In this section "authorised association" means any society, company or body of persons approved by the Board whose objects include the promotion, formation, or management of garden cities (including garden suburbs and garden villages), and the erection, improvement or management of buildings for the working classes and others, which does not trade for profit or whose constitution forbids the issue of any share or loan capital with interest or dividend exceeding the rate for the time being prescribed by the Treasury; and any authorised association shall have power, notwithstanding anything in its rules or constitution prohibiting the payment of interest on loan capital at a rate exceeding six per centum per annum, to raise money on loan at a rate of interest not exceeding the rate for the time being prescribed by the Treasury.

Determination of matters by Board.

16. Where the Board are authorised by this Act or any scheme made under this Act or any enactment repealed by this Act to determine any matter, it shall, except as otherwise expressly provided by this Act, be at their option to determine the matter as arbiters or otherwise, and, if they elect or are required to determine the matter as arbiters, the provisions of the Regulation of Railways Act, 1868, respecting arbitrations by the Board of Trade, and the enactments amending those provisions, shall apply as if they were herein re-enacted and in terms made applicable to the Board and the determination of the matters aforesaid.

31 & 32 Vict. c. 119.

Local inquiries.

17.—(1) For the purposes of the execution of their powers and duties under this Act, the Board may cause such local inquiries to be held as they may think fit, and the expenses incurred in relation to any such local inquiry (including the remuneration of any person employed by the Board for the purpose of the inquiry) shall be paid by the authorities and persons concerned in the inquiry, or by such of them and in such proportions as the Board may direct, and the Board may certify the amount of the expenses incurred, and any sum so certified and directed by the Board to be paid by

any authority or person shall be a debt to the Crown from such authority or person.

(2) Except so far as inconsistent with the provisions of the preceding subsection, sections seven, eight, nine and ten of the Public Health (Scotland) Act, 1897, shall apply for the purpose of local inquiries ordered by the Board under this Act.

Board to have regard to powers of dean of guild courts.

18. In any proceedings under this Act the Board shall have regard to the powers and jurisdiction of the dean of guild court in burghs.

Provisions as to land in neighbourhood of royal palaces and parks.

19.—(1) Where any land proposed to be included in a town planning scheme, or any land proposed to be acquired under this Act, is situate within the prescribed distance from any of the royal palaces or parks, the authority shall, before preparing the scheme or acquiring the land, communicate with the Commissioners of Works, and the Board shall, before confirming the scheme or authorising the acquisition of the land or the raising of any loan for the purpose, take into consideration any recommendations they may have received from the Commissioners of Works with reference to the proposal.

(2) For the purposes of this section, "prescribed" means prescribed by regulations made by the Board after consultation with the Commissioners of Works.

Local authority and expenses.

20.—(1) For the purposes of this Act, the local authority and the district of the local authority shall respectively be the local authority for the purposes of the Public Health (Scotland) Act, 1897, and the district of that authority.

(2) Any expenses incurred by a local authority under this Act, or any scheme made under this Act or any enactment repealed by this Act, shall be defrayed by them out of the public health general assessment, but such expenses shall not be reckoned in any calculation as to the statutory limit of that assessment.

(3) A local authority may borrow for the purposes of this Act, or any scheme made under this Act or any enactment repealed by this Act, including the cost of the preparation or adoption of a scheme, in the same manner and subject to the same provisions as they may borrow for the purposes of the Housing (Scotland) Act, 1925. 15 Geo. 5. c. 15.

Repeals.

21.—(1) The enactments mentioned in the Fourth Schedule to this Act are, so far as they apply to Scotland, hereby repealed to the extent specified in the third column of that Schedule:

Provided that—

(*a*) nothing in this repeal shall affect any scheme, order or regulation made, or notice or approval given under any enactment hereby repealed, but any such scheme, order, regulation, or notice or approval shall have effect as if made or given under the corresponding provision of this Act, and any such scheme, order regulation or notice may be amended, varied, repealed, revoked, or enforced accordingly;

(*b*) any document referring to any Act or enactment so repealed shall be construed as referring to this Act or the corresponding enactment in this Act.

(2) The mention of particular matters in this section shall not be held to prejudice or affect the general application of section thirty-eight of the Interpretation Act, 1889, with regard to the effect of repeals.

52 & 53 Vict. c. 63.

Short title, commencement and extent.

22.—(1) This Act may be cited as the Town Planning (Scotland) Act, 1925.

(2) This Act shall come into operation on the first day of July, nineteen hundred and twenty-five.

(3) This Act shall extend to Scotland only.

SCHEDULES.

Section 5.

FIRST SCHEDULE.

MATTERS TO BE DEALT WITH BY GENERAL PROVISIONS PRESCRIBED BY THE BOARD.

1. Streets, roads, and other ways, and stopping up, or diversion of existing highways.

2. Buildings, structures, and erections.

3. Open spaces, private and publ c.

4. The preservation of objects of historical interest or natural beauty.

5. Sewerage, drainage, and sewage disposal.

6. Lighting.

7. Water supply.

8. Ancillary or consequential works.

9. Extinction or variation of private rights of way and other servitudes.

10. Dealing with or disposal of land acquired by the responsible authority or by a local authority.

11. Power of entry and inspection.

12. Power of the responsible authority to remove, alter or demolish any obstructive work.

13. Power of the responsible authority to make agreements with owners, and of owners to make agreements with one another.

14. Power of the responsible authority or a local authority to accept any money or property for the furtherance of the objects of any town planning scheme, and provision for regulating the administration of any such money or property.

15. Application with the necessary modifications and adaptations of statutory enactments.

16. Carrying out and supplementing the provisions of this Act for enforcing schemes.

17. Limitation of time for operation of scheme.

18. Co-operation of the responsible authority with the owners of land included in the scheme or other persons interested.

19. Charging on the fee of any land the value of which is increased by the operation of a town planning scheme the sum required to be paid in respect of that increase, and for that purpose applying, with the necessary adaptations the provisions of any enactments dealing with charges for improvements of land.

Section 6.

SECOND SCHEDULE.

MATTERS TO BE DEALT WITH BY REGULATIONS OF THE BOARD.

1. Procedure anterior to the preparation or adoption of a scheme :—

(*a*) Preparation and deposit of plans.

(*b*) Publication of notices.

2. Procedure during, on, and after the preparation or adoption and before the approval of the scheme :—

(*a*) Submission to the Board of the proposed scheme, with plans and estimates.

(*b*) Notice of submission of proposed scheme to the Board.

(*c*) Hearing of objections and representations by persons affected, including persons representing architectural or archæological societies or otherwise interested in the amenity of the proposed scheme.

(*d*) Publication of notice of intention to approve scheme and the lodging of objections thereto.

3. Procedure after the approval of the scheme :

(*a*) Notice to be given of approval of scheme.

(*b*) Inquiries and reports as to the beginning and the progress and completion of works, and other action under the scheme.

4. Duty, at any stage, of the local authority to publish or deposit for inspection any scheme or proposed scheme, and the plans relating thereto, and to give information to persons affected with reference to any such scheme or proposed scheme.

5. The details to be specified in plans, including wherever the circumstances so require, the restrictions on the number of buildings which may be erected on each acre, and the height and character of those buildings.

THIRD SCHEDULE.

Section 8.

Part I.

Provisions as to Compulsory Acquisition of Land.

1. Where a local authority propose to purchase land compulsorily the local authority may submit to the Board an order putting in force as respects the land specified in the order the provisions of the Lands Clauses Acts with respect to the purchase and taking of land otherwise than by agreement.

2. An order under this Schedule shall be of no force unless and until it is confirmed by the Board, and the Board may confirm the order either without modification or subject to such modifications as they think fit, and an order when so confirmed shall, save as otherwise expressly provided by this Schedule, become final and have effect as if enacted in this Act; and the confirmation by the Board shall be conclusive evidence that the requirements of this Act have been complied with, and that the order has been duly made and is within the powers of this Act.

3. The order shall be in the form prescribed by the Board, and shall contain such provisions as the Board may prescribe for the purpose of carrying the order into effect, and of protecting the local authority and the persons interested in the land, and shall incorporate, subject to the necessary adaptations—

(*a*) the Lands Clauses Acts (except section one hundred and twenty of the Lands Clauses Consolidation (Scotland) Act, 1845), as modified by the Acquisition of Land (Assessment of Compensation) Act, 1919; and — 8 & 9 Vict. c. 17. 9 & 10 Geo. 5. c. 57.

(*b*) sections seventy to seventy-eight of the Railways Clauses Consolidation (Scotland) Act, 1845. — 8 & 9 Vict. c. 33.

4. The order shall be published by the local authority in the manner prescribed by the Board, and such notice shall be given both in the locality in which the land is proposed to be acquired, and to the owners, lessees and occupiers of that land as may be prescribed by the Board.

5. If within such period as may be prescribed by the Board no objection to the order has been presented to the Board by a person interested in the land, or if every such objection has been withdrawn, the Board shall, without further inquiry, confirm the order, unless they are of opinion that the land is unsuited for the purpose for which it is proposed to be acquired, but, if such an objection has been presented and has not been withdrawn, the Board shall forthwith cause a public inquiry to be held in the locality in which the land is proposed to be acquired, and the local authority and all persons interested in the land and such other persons as the person holding the inquiry in his discretion thinks fit to allow shall be permitted to appear and be heard at

3RD SCH. —*cont.*

the inquiry, and the Board shall, before confirming the order, duly consider the report of the person by whom the public inquiry is held.

6. In construing for the purposes of this Schedule or any order made thereunder any enactment incorporated with the order, this Act together with the order shall be deemed to be the special Act, and the local authority shall be deemed to be the promoters of the undertaking.

7. The reference to sections seventy-one to seventy-eight of the Railways Clauses Consolidation (Scotland) Act, 1845, shall be construed as a reference to those sections as originally enacted and not as a reference to the provisions which by virtue of the Mines (Working Facilities and Support) Act, 1923, are in certain cases to be substituted for those sections.

13 & 14 Geo. 5. c. 20.

PART II.

RESTRICTIONS ON ACQUISITION OF LAND.

1. Nothing in this Act shall authorise the acquisition for the purposes of any town planning scheme of any land which is the site of an ancient monument or other object of archæological interest.

2. Nothing in this Act shall authorise the compulsory acquisition of any land which is the property of any local authority, or has been acquired by any corporation or company for the purposes of a railway, dock, canal, water or other public undertaking, or which, at the date of the order authorising the compulsory acquisition of the land, forms part of any park, garden or pleasure ground, or is otherwise required for the amenity or convenience of any house.

3.—(1) Where any scheme or order under this Act authorises the acquisition or appropriation of any land forming part of any common or open space, the scheme or order, so far as it relates to the acquisition or appropriation of such land, shall be provisional only, and shall not have effect unless and until it is confirmed by Parliament, except where the scheme or order provides for giving in exchange for such land other land, not being less in area certified by the Board, after consultation with the Board of Agriculture for Scotland, to be equally advantageous to the persons, if any, entitled to common or other rights and to the public.

(2) Before giving any such certificate the Board shall give public notice of the proposed exchange, and shall afford opportunities to all persons interested to make representations and objections in relation thereto, and shall, if necessary, hold a local inquiry on the subject.

3rd Sch. —*cont.*

(3) Where any such scheme or order authorises such an exchange, the scheme or order shall provide for vesting the land given in exchange in the persons in whom the common or open space was vested, subject to the same rights, trusts, and incidents as attached to the common or open space, and for discharging the part of the common or open space acquired or appropriated from all rights, trusts, and incidents, to which it was previously subject.

(4) For the purposes of this Part of this Schedule, the expression "common" includes any town or village green; and the expression "open space" means any land laid out as a public garden or used for the purposes of public recreation, and any disused burial ground.

FOURTH SCHEDULE.

Section 21.

Enactments repealed.

Session and Chapter.	Short Title.	Extent of Repeal.
9 Edw. 7. c. 44.	The Housing, Town Planning, &c., Act, 1909.	Part II. Part IV. so far as it relates to town planning. The Fourth Schedule. The Fifth Schedule.
9 & 10 Geo. 5. c. 60.	The Housing, Town Planning, &c. (Scotland) Act, 1919.	Part II. The Third Schedule.
9 & 10 Geo. 5. c. 99.	The Housing (Additional Powers) Act, 1919.	Section ten.
10 & 11 Geo. 5. c. 21.	The Housing (Scotland) Act, 1920.	Section eight, so far as it relates to section ten of the Housing (Additional Powers) Act, 1919.
13 & 14 Geo. 5. c. 24.	The Housing, &c., Act, 1923.	Part II. Subsection (2), so far as it relates to Part II. of the Act, and subsection (13) of section twenty-three. The Second Schedule so far as it amends section 59 of the Housing, Town Planning, &c., Act, 1909.

CHAPTER 18.

An Act to consolidate the enactments relating to Settled Land in England and Wales.

[9th April 1925.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

PART I.

GENERAL PRELIMINARY PROVISIONS.

Settlements and Settled Land.

What constitutes a settlement.

1.—(1) Any deed, will, agreement for a settlement or other agreement, Act of Parliament, or other instrument, or any number of instruments, whether made or passed before or after, or partly before and partly after, the commencement of this Act, under or by virtue of which instrument or instruments any land, after the commencement of this Act, stands for the time being—

(i) limited in trust for any persons by way of succession; or

(ii) limited in trust for any person in possession—

(*a*) for an entailed interest whether or not capable of being barred or defeated;

(*b*) for an estate in fee simple or for a term of years absolute subject to an executory limitation, gift, or disposition over on failure of his issue or in any other event;

(*c*) for a base or determinable fee or any corresponding interest in leasehold land;

(*d*) being an infant, for an estate in fee simple or for a term of years absolute; or

(iii) limited in trust for any person for an estate in fee simple or for a term of years absolute contingently on the happening of any event; or

(iv) limited to or in trust for a married woman of full age in possession for an estate in fee simple or a term of years absolute or any other interest with a restraint on anticipation; or

(v) charged, whether voluntarily or in consideration of marriage or by way of family arrangement, and whether immediately or after an interval, with the payment of any rentcharge for the life of any person, or any less period, or of any capital, annual, or periodical sums for the portions, advancement, maintenance, or otherwise for the benefit of any persons, with or without any term of years for securing or raising the same;

creates or is for the purposes of this Act a settlement and is in this Act referred to as a settlement, or as the settlement, as the case requires:

Provided that, where land is the subject of a compound settlement, references in this Act to the settlement shall be construed as meaning such compound settlement, unless the context otherwise requires.

(2) Where an infant is beneficially entitled to land for an estate in fee simple or for a term of years absolute and by reason of an intestacy or otherwise there is no instrument under which the interest of the infant arises or is acquired, a settlement shall be deemed to have been made by the intestate, or by the person whose interest the infant has acquired.

(3) An infant shall be deemed to be entitled in possession notwithstanding any subsisting right of dower (not assigned by metes and bounds) affecting the land, and such a right of dower shall be deemed to be an interest comprised in the subject of the settlement and coming to the dowress under or by virtue of the settlement.

Where dower has been assigned by metes and bounds, the letters of administration or probate granted in respect of the estate of the husband of the dowress shall be deemed a settlement made by the husband.

(4) An estate or interest not disposed of by a settlement and remaining in or reverting to the settlor, or any person deriving title under him, is for the purposes of this Act an estate or interest comprised in the subject of the settlement and coming to the settlor or such person under or by virtue of the settlement.

(5) Where—

(*a*) a settlement creates an entailed interest which is incapable of being barred or

defeated, or a base or determinable fee, whether or not the reversion or right of reverter is in the Crown, or any corresponding interest in leasehold land; or

(*b*) the subject of a settlement is an entailed interest, or a base or determinable fee, whether or not the reversion or right of reverter is in the Crown, or any corresponding interest in leasehold land;

the reversion or right of reverter upon the cesser of the interest so created or settled shall be deemed to be an interest comprised in the subject of the settlement, and limited by the settlement.

(6) Subsections (4) and (5) of this section bind the Crown.

What is settled land.

2. Land which is or is deemed to be the subject of a settlement is for the purposes of this Act settled land, and is in relation to the settlement referred to in this Act as the settled land.

Duration of settlements.

3. Land which has been subject to a settlement shall be deemed for the purposes of this Act to remain and be settled land, and the settlement shall be deemed to be a subsisting settlement for the purposes of this Act so long as—

(*a*) any limitation, charge, or power of charging under the settlement subsists, or is capable of being exercised; or

(*b*) the person who, if of full age, would be entitled as beneficial owner to have that land vested in him for a legal estate is an infant.

Authorised method of settling land inter vivos.

4.—(1) Every settlement of a legal estate in land inter vivos shall, save as in this Act otherwise provided, be effected by two deeds, namely, a vesting deed and a trust instrument and if effected in any other way shall not operate to transfer or create a legal estate.

(2) By the vesting deed the land shall be conveyed to the tenant for life or statutory owner (and if more than one as joint tenants) for the legal estate the subject of the intended settlement:

Provided that, where such legal estate is already vested in the tenant for life or statutory owner, it shall be sufficient, without any other conveyance, if the

vesting deed declares that the land is vested in him for that estate.

(3) The trust instrument shall—

(*a*) declare the trusts affecting the settled land;

(*b*) appoint or constitute trustees of the settlement;

(*c*) contain the power, if any, to appoint new trustees of the settlement;

(*d*) set out, either expressly or by reference, any powers intended to be conferred by the settlement in extension of those conferred by this Act;

(*e*) bear any ad valorem stamp duty which may be payable (whether by virtue of the vesting deed or otherwise) in respect of the settlement.

Contents of vesting deeds.

5.—(1) Every vesting deed for giving effect to a settlement or for conveying settled land to a tenant for life or statutory owner during the subsistence of the settlement (in this Act referred to as a "principal vesting deed") shall contain the following statements and particulars, namely:—

(*a*) A description, either specific or general, of the settled land;

(*b*) A statement that the settled land is vested in the person or persons to whom it is conveyed or in whom it is declared to be vested upon the trusts from time to time affecting the settled land;

(*c*) The names of the persons who are the trustees of the settlement;

(*d*) Any additional or larger powers conferred by the trust instrument relating to the settled land which by virtue of this Act operate and are exercisable as if conferred by this Act on a tenant for life;

(*e*) The name of any person for the time being entitled under the trust instrument to appoint new trustees of the settlement.

(2) The statements or particulars required by this section may be incorporated by reference to an existing vesting instrument, and, where there is a settlement

subsisting at the commencement of this Act, by reference to that settlement and to any instrument whereby land has been conveyed to the uses or upon the trusts of that settlement, but not (save as last aforesaid) by reference to a trust instrument nor by reference to a disentailing deed.

(3) A principal vesting deed shall not be invalidated by reason only of any error in any of the statements or particulars by this Act required to be contained therein.

Procedure in the case of settlements by will.

6. Where a settlement is created by the will of an estate owner who dies after the commencement of this Act—

(*a*) the will is for the purposes of this Act a trust instrument; and

(*b*) the personal representatives of the testator shall hold the settled land on trust, if and when required so to do, to convey it to the person who, under the will, or by virtue of this Act, is the tenant for life or statutory owner, and, if more than one, as joint tenants.

Procedure on change of ownership.

7.—(1) If, on the death of a tenant for life or statutory owner, or of the survivor of two or more tenants for life or statutory owners, in whom the settled land was vested, the land remains settled land, his personal representatives shall hold the settled land on trust, if and when required so to do, to convey it to the person who under the trust instrument or by virtue of this Act becomes the tenant for life or statutory owner and, if more than one, as joint tenants.

(2) If a person by reason of attaining full age becomes a tenant for life for the purposes of this Act of settled land, he shall be entitled to require the trustees of the settlement, personal representatives, or other persons in whom the settled land is vested, to convey the land to him.

(3) If a person who, when of full age, will together with another person or other persons constitute the tenant for life for the purposes of this Act of settled land attains that age, he shall be entitled to require the tenant for life, trustees of the settlement, personal representatives or other persons in whom the settled land is vested to convey the land to him and the other

person or persons who together with him constitute the tenant for life as joint tenants.

(4) If by reason of forfeiture, surrender, or otherwise the estate owner of any settled land ceases to have the statutory powers of a tenant for life and the land remains settled land, he shall be bound forthwith to convey the settled land to the person who under the trust instrument, or by virtue of this Act, becomes the tenant for life or statutory owner and, if more than one, as joint tenants.

(5) If any person of full age becomes absolutely entitled to the settled land (whether beneficially, or as personal representative, or as trustee for sale, or otherwise) free from all limitations, powers, and charges taking effect under the settlement, he shall be entitled to require the trustees of the settlement, personal representatives, or other persons in whom the settled land is vested, to convey the land to him, and if more persons than one being of full age become so entitled to the settled land they shall be entitled to require such persons as aforesaid to convey the land to them as joint tenants.

Mode and costs of conveyance, and saving of rights of personal representatives and equitable chargees.

8.—(1) A conveyance by personal representatives under either of the last two preceding sections may be made by an assent in writing signed by them which shall operate as a conveyance.

(2) Every conveyance under either of the last two preceding sections shall be made at the cost of the trust estate.

(3) The obligations to convey settled land imposed by the last two preceding sections are subject and without prejudice—

(*a*) where the settlement is created by a will, to the rights and powers of the personal representatives for purposes of administration; and

(*b*) in any case, to the person on whom the obligation is imposed being satisfied that provision has been or will be made for the payment of any unpaid death duties in respect of the land or any interest therein for which he is accountable, and any interest and costs in respect of such duties, or that he is otherwise effectually indemnified against such duties, interest and costs.

(4) Where the land is or remains settled land a conveyance under either of the last two preceding sections shall—

(*a*) if by deed, be a principal vesting deed; and

(*b*) if by an assent, be a vesting assent, which shall contain the like statements and particulars as are required by this Act in the case of a principal vesting deed.

(5) Nothing contained in either of the last two preceding sections affects the right of personal representatives to transfer or create such legal estates to take effect in priority to a conveyance under either of those sections as may be required for giving effect to the obligations imposed on them by statute.

(6) A conveyance under either of the last two preceding sections, if made by deed, may contain a reservation to the person conveying of a term of years absolute in the land conveyed, upon trusts for indemnifying him against any unpaid death duties in respect of the land conveyed or any interest therein, and any interest and costs in respect of such duties.

(7) Nothing contained in either of the last two preceding sections affects any right which a person entitled to an equitable charge for securing money actually raised, and affecting the whole estate the subject of the settlement, may have to require effect to be given thereto by a legal mortgage, before the execution of a conveyance under either of those sections.

Procedure in the case of settlements and of instruments deemed to be trust instruments.

9.—(1) Each of the following settlements or instruments shall for the purposes of this Act be deemed to be a trust instrument, and any reference to a trust instrument contained in this Act shall apply thereto, namely :—

(i) An instrument executed, or, in case of a will, coming into operation, after the commencement of this Act which by virtue of this Act is deemed to be a settlement;

(ii) A settlement which by virtue of this Act is deemed to have been made by any person after the commencement of this Act;

(iii) An instrument inter vivos intended to create a settlement of a legal estate in land which is executed after the commencement of this Act,

and does not comply with the requirements of this Act with respect to the method of effecting such a settlement; and

(iv) A settlement made after the commencement of this Act (including a settlement by the will of a person who dies after such commencement) of any of the following interests—

(*a*) an equitable interest in land which is capable, when in possession, of subsisting at law; or

(*b*) an entailed interest; or

(*c*) a base or determinable fee or any corresponding interest in leasehold land,

but only if and when the interest settled takes effect free from all equitable interests and powers under every prior settlement (if any).

(2) As soon as practicable after a settlement, or an instrument which for the purposes of this Act is deemed to be a trust instrument, takes effect as such, the trustees of the settlement may, and on the request of the tenant for life or statutory owner shall, execute a principal vesting deed, containing the proper statements and particulars, declaring that the legal estate in the settled land shall vest or is vested in the person or persons therein named, being the tenant for life or statutory owner, and including themselves if they are the statutory owners, and such deed shall, unless the legal estate is already so vested, operate to convey or vest the legal estate in the settled land to or in the person or persons aforesaid and, if more than one, as joint tenants.

(3) If there are no trustees of the settlement, then (in default of a person able and willing to appoint such trustees) an application under this Act shall be made to the court for the appointment of such trustees.

(4) The provisions of the last preceding section with reference to a conveyance shall apply, so far as they are applicable, to a principal vesting deed under this section.

Procedure on acquisition of land to be made subject to a settlement.

10.—(1) Where after the commencement of this Act land is acquired with capital money arising under this Act or in exchange for settled land, or a rentcharge is reserved on a grant of settled land, the land shall be

conveyed to, and the rentcharge shall by virtue of this Act become vested in, the tenant for life or statutory owner, and such conveyance or grant is in this Act referred to as a subsidiary vesting deed:

Provided that, where an instrument is subsisting at the commencement of this Act, or is made or comes into operation after such commencement, by virtue of which any money or securities are liable under this Act, or the Acts which it replaces, or under a trust or direction contained in the instrument, to be invested in the purchase of land to be conveyed so as to become settled land, but at the commencement of this Act, or when such instrument is made or comes into operation after such commencement, as the case may be, there is no land in respect of which a principal vesting deed is capable of being executed, the first deed after the commencement of this Act by which any land is acquired as aforesaid shall be a principal vesting deed and shall be framed accordingly.

(2) A subsidiary vesting deed executed on the acquisition of land to be made subject to a settlement shall contain the following statements and particulars, namely—

(*a*) particulars of the last or only principal vesting instrument affecting land subject to the settlement;

(*b*) a statement that the land conveyed is to be held upon and subject to the same trusts and powers as the land comprised in such last or only principal vesting instrument;

(*c*) the names of the persons who are the trustees of the settlement;

(*d*) the name of any person for the time being entitled to appoint new trustees of the settlement.

(3) A subsidiary vesting deed reserving a rentcharge on a grant of settled land shall contain the following statements and particulars—

(*a*) a statement that the rentcharge is vested in the grantor and is subject to the settlement which, immediately before the grant, was subsisting with respect to the land out of which it was reserved;

(*b*) particulars of the last or only principal vesting instrument affecting such land.

(4) A subsidiary vesting deed shall not be invalidated by reason only of any error in any of the statements or particulars by this Act required to be contained therein.

(5) The acquisition of the land shall not operate to increase or multiply charges or powers of charging.

As to contracts for the settlement of land.

11.—(1) A contract made or other liability created or arising after the commencement of this Act for the settlement of land—

(i) by or on the part of an estate owner; or

(ii) by a person entitled to—

(*a*) an equitable interest which is capable when in possession of subsisting at law; or

(*b*) an entailed interest; or

(*c*) a base or determinable fee or any corresponding interest in leasehold land;

shall, but in cases under paragraph (ii) only if and when the interest of the person entitled takes effect free from all equitable interests and powers under every prior settlement, if any, be deemed an estate contract within the meaning of the Land Charges Act, 1925, and may be registered as a land charge accordingly, and effect shall be given thereto by a vesting deed and a trust instrument in accordance with this Act.

15 Geo. 5. c. 22.

(2) A contract made or other liability created or arising before the commencement of this Act to make a settlement of land shall be deemed to be sufficiently complied with if effect is given thereto by a vesting deed and a trust instrument in accordance with this Act.

Power to make vesting orders as to settled land.

12.—(1) If—

(*a*) any person who is bound under this Part of this Act to execute a conveyance, vesting deed or vesting assent or in whom settled land is wrongly vested refuses or neglects to execute the requisite conveyance, vesting deed or vesting assent within one month after demand in writing; or

(*b*) any such person is outside the United Kingdom, or cannot be found, or it is not known whether he is alive or dead; or

(*c*) for any reason the court is satisfied that the conveyance, vesting deed or vesting assent cannot be executed, or cannot be executed without undue delay or expense;

the court may, on the application of any person interested, make an order vesting the settled land in the tenant for life or statutory owner or person, if any, of full age absolutely entitled (whether beneficially or as personal representative or trustee for sale or otherwise), and, if the land remains settled land, the provisions of this Act relating to a principal vesting deed or a subsidiary vesting deed, as the case may be, shall apply to any order so made and every such order shall contain the like statements and particulars.

(2) No stamp duty shall be payable in respect of a vesting order made in place of a vesting or other assent.

Dispositions not to take effect until vesting instrument is made.

13. Where a tenant for life or statutory owner has become entitled to have a principal vesting deed or a vesting assent executed in his favour, then until a vesting instrument is executed or made pursuant to this Act in respect of the settled land, any purported disposition thereof inter vivos by any person, other than a personal representative (not being a disposition which he has power to make in right of his equitable interests or powers under a trust instrument), shall not take effect except in favour of a purchaser of a legal estate without notice of any settlement, but, save as aforesaid, shall operate only as a contract for valuable consideration to carry out the transaction after the requisite vesting instrument has been executed or made, and a purchaser of a legal estate shall not be concerned with such disposition unless the contract is registered as a land charge.

Forfeiture and stamps.

14.—(1) Any vesting effected under the powers conferred by this Act in relation to settled land shall not operate as a breach of a covenant or condition against alienation or give rise to a forfeiture.

(2) Nothing in this Act shall operate to impose any stamp duty on a vesting or other assent.

15. Examples of instruments framed in accordance with the provisions of this Act are contained in the First Schedule to this Act. Examples of instruments.

Enforcement of Equitable Interests and Powers against Estate Owner and discharge on termination of Settlement.

16.—(1) All equitable interests and powers in or over settled land (whether created before or after the date of any vesting instrument affecting the legal estate) shall be enforceable against the estate owner in whom the settled land is vested (but in the case of personal representatives without prejudice to their rights and powers for purposes of administration) in manner following (that is to say):— Enforcement of equitable interests and powers against estate owner.

(i) The estate owner shall stand possessed of the settled land and the income thereof upon such trusts and subject to such powers and provisions as may be requisite for giving effect to the equitable interests and powers affecting the settled land or the income thereof of which he has notice according to their respective priorities;

(ii) Where any person of full age becomes entitled to require a legal estate in the settled land to be vested in him in priority to the settlement, by reason of a right of reverter, statutory or otherwise, or an equitable right of entry taking effect, or on the ground that his interest ought no longer to be capable of being over-reached under the powers of this Act, the estate owner shall be bound, if so requested in writing, to transfer or create such legal estate as may be required for giving legal effect to the rights of the person so entitled;

(iii) Where—

(*a*) any principal sum is required to be raised on the security of the settled land, by virtue of any trust, or by reason of the exercise of an equitable power affecting the settled land, or by any person or persons who under the settlement is or are entitled

or together entitled to or has or have a general power of appointment over the settled land, whether subject to any equitable charges or powers of charging subsisting under the settlement or not; or

(*b*) the settled land is subject to any equitable charge for securing money actually raised and affecting the whole estate the subject of the settlement;

the estate owner shall be bound, if so requested in writing, to create such legal estate or charge by way of legal mortgage as may be required for raising the money or giving legal effect to the equitable charge:

Provided that, so long as the settlement remains subsisting, any legal estate or charge by way of legal mortgage so created shall take effect and shall be expressed to take effect subject to any equitable charges or powers of charging subsisting under the settlement which have priority to the interests or powers of the person or persons by or on behalf of whom the money is required to be raised or legal effect is required to be given to the equitable charge, unless the persons entitled to the prior charges or entitled to exercise the powers consent in writing to the same being postponed, but it shall not be necessary for such consent to be expressed in the instrument creating such legal estate or charge by way of legal mortgage.

(2) Where a mortgage or charge is expressed to be made by an estate owner pursuant to this section, then, in favour of the mortgagee or chargee and persons deriving title under him, the same shall take effect in priority to all the trusts of the settlement and all equitable interests and powers subsisting or to arise under the settlement except those to which it is expressly made subject, and shall so take effect, whether the mortgagee or chargee has notice of any such trusts, interests, or powers, or not, and the mortgagee or chargee shall not be concerned to see that a case had arisen to authorise the mortgage or charge, or that no more money than was wanted was raised.

(3) Nothing contained in paragraph (iii) of subsection (1) of this section affects the power conferred

by this Act on a tenant for life of raising money by mortgage or of directing capital money to be applied in discharge of incumbrances.

(4) Effect may be given by means of a legal mortgage to an agreement for a mortgage, or a charge or lien, whether or not arising by operation of law, if the agreement charge or lien ought to have priority over the settlement.

(5) Save as hereinbefore expressly provided, no legal estate shall, so long as the settlement is subsisting, be transferred or created by the estate owner for giving effect to any equitable interest or power under the settlement.

(6) If a question arises or a doubt is entertained whether any and what legal estate ought to be transferred or created pursuant to this section, an application may be made to the court for directions as hereinafter provided.

(7) If an estate owner refuses or neglects for one month after demand in writing to transfer or create any such legal estate, or if by reason of his being outside the United Kingdom, or being unable to be found, or by reason of the dissolution of a corporation, or for any other reason, the court is satisfied that the transaction cannot otherwise be effected, or cannot be effected without undue delay or expense, the court may, on the application of any person interested, make a vesting order transferring or creating the requisite legal estate.

(8) This section does not affect a purchaser of a legal estate taking free from any equitable interest or power.

Deed of discharge on termination of settlement.

17.—(1) Where the estate owner of any settled land holds the land free from all equitable interests and powers under a trust instrument, the persons who in the last or only principal vesting instrument or the last or only endorsement on or annex thereto are declared to be the trustees of the settlement or the survivors of them shall, save as hereinafter mentioned, be bound to execute, at the cost of the trust estate, a deed

declaring that they are discharged from the trust so far as regards that land:

Provided that, if the trustees have notice of any derivative settlement, trust for sale or equitable charge affecting such land, they shall not execute a deed of discharge until—

(*a*) in the case of a derivative settlement, or trust for sale, a vesting instrument or a conveyance has been executed or made for giving effect thereto; and

(*b*) in the case of an equitable charge, they are satisfied that the charge is or will be secured by a legal mortgage, or is protected by registration as a land charge, or by deposit of the documents of title, or that the owner thereof consents to the execution of the deed of discharge.

Where the land is affected by a derivative settlement or trust for sale, the deed of discharge shall contain a statement that the land is settled land by virtue of such vesting instrument as aforesaid and the trust instrument therein referred to, or is held on trust for sale by virtue of such conveyance as aforesaid, as the case may require.

(2) If, in the circumstances mentioned in subsection (1) of this section and when the conditions therein mentioned have been complied with, the trustees of a settlement on being requested to execute a deed of discharge—

(*a*) by the estate owner; or

(*b*) by a person interested under, or by the trustees of, a derivative settlement; or

(*c*) by the trustees of a conveyance on trust for sale;

refuse to do so, or if for any reason the discharge cannot be effected without undue delay or expense, the estate owner, person interested, or trustees may apply to the court for an order discharging the first mentioned trustees as respects the whole or any part of the settled land, and the court may make such order as it may think fit.

(3) Where a deed or order of discharge contains no statement to the contrary, a purchaser of a legal estate

in the land to which the deed or order relates shall be entitled to assume that the land has ceased to be settled land, and is not subject to any trust for sale.

Restrictions on dispositions of Settled Land where Trustees have not been Discharged.

Restrictions on dispositions of settled land where trustees have not been discharged.

18.—(1) Where land is the subject of a vesting instrument and the trustees of the settlement have not been discharged under this Act, then—

(*a*) any disposition by the tenant for life or statutory owner of the land, other than a disposition authorised by this Act or any other statute, or made in pursuance of any additional or larger powers mentioned in the vesting instrument, shall be void, except for the purpose of conveying or creating such equitable interests as he has power, in right of his equitable interests and powers under the trust instrument, to convey or create; and

(*b*) if any capital money is payable in respect of a transaction, a conveyance to a purchaser of the land shall only take effect under this Act if the capital money is paid to or by the direction of the trustees of the settlement or into court; and

(*c*) notwithstanding anything to the contrary in the vesting instrument, or the trust instrument, capital money shall not, except where the trustee is a trust corporation, be paid to or by the direction of fewer persons than two as trustees of the settlement.

(2) The restrictions imposed by this section do not affect—

(*a*) the right of a personal representative in whom the settled land may be vested to convey or deal with the land for the purposes of administration;

(*b*) the right of a person of full age who has become absolutely entitled (whether beneficially or as trustee for sale or personal representative or

otherwise) to the settled land, free from all limitations, powers, and charges taking effect under the trust instrument, to require the land to be conveyed to him;

(*c*) the power of the tenant for life, statutory owner, or personal representative in whom the settled land is vested to transfer or create such legal estates, to take effect in priority to the settlement, as may be required for giving effect to any obligations imposed on him by statute, but where any capital money is raised or received in respect of the transaction the money shall be paid to or by the direction of the trustees of the settlement or in accordance with an order of the court.

Tenants for Life and Persons with Powers of Tenant for Life.

Who is tenant for life.

Salomon v S. [1897] A.C. at p. 57

19.—(1) The person of full age who is for the time being beneficially entitled under a settlement to possession of settled land for his life is for the purposes of this Act the tenant for life of that land and the tenant for life under that settlement.

(2) If in any case there are two or more persons of full age so entitled as joint tenants, they together constitute the tenant for life for the purposes of this Act.

(3) If in any case there are two or more persons so entitled as joint tenants and they are not all of full age, such one or more of them as is or are for the time being of full age is or (if more than one) together constitute the tenant for life for the purposes of this Act, but this subsection does not affect the beneficial interests of such of them as are not for the time being of full age.

(4) A person being tenant for life within the foregoing definitions shall be deemed to be such notwithstanding that, under the settlement or otherwise, the settled land, or his estate or interest therein, is incumbered or charged in any manner or to any extent, and notwithstanding any assignment by operation of law or otherwise of his estate or interest under the settlement, whether before or after it came into possession, other than an assurance which extinguishes that estate or interest.

Other limited owners having powers of tenant for life.

20.—(1) Each of the following persons being of full age shall, when his estate or interest is in possession, have the powers of a tenant for life under this Act, (namely):—

(i) A tenant in tail, including a tenant in tail after possibility of issue extinct, and a tenant in tail who is by Act of Parliament restrained from barring or defeating his estate tail, and although the reversion is in the Crown, but not including such a tenant in tail where the land in respect whereof he is so restrained was purchased with money provided by Parliament in consideration of public services;

(ii) A person entitled to land for an estate in fee simple or for a term of years absolute with or subject to, in any of such cases, an executory limitation, gift, or disposition over on failure of his issue or in any other event;

(iii) A person entitled to a base or determinable fee, although the reversion or right of reverter is in the Crown, or to any corresponding interest in leasehold land;

(iv) A tenant for years determinable on life, not holding merely under a lease at a rent;

(v) A tenant for the life of another, not holding merely under a lease at a rent;

(vi) A tenant for his own or any other life, or for years determinable on life, whose estate is liable to cease in any event during that life, whether by expiration of the estate, or by conditional limitation, or otherwise, or to be defeated by an executory limitation, gift, or disposition over, or is subject to a trust for accumulation of income for any purpose;

(vii) A tenant by the curtesy;

(viii) A person entitled to the income of land under a trust or direction for payment thereof to him during his own or any other life, whether or not subject to expenses of management or to a trust for accumulation of income for any purpose, or

until sale of the land, or until forfeiture, cesser or determination by any means of his interest therein, unless the land is subject to an immediate binding trust for sale;

(ix) A person beneficially entitled to land for an estate in fee simple or for a term of years absolute subject to any estates, interests, charges, or powers of charging, subsisting or capable of being exercised under a settlement;

(x) A married woman entitled to land for an estate in fee simple or for a term of years absolute subject to a restraint on anticipation.

(2) In every such case as is mentioned in subsection (1) of this section, the provisions of this Act referring to a tenant for life, either as conferring powers on him or otherwise, shall extend to each of the persons aforesaid, and any reference in this Act to death as regards a tenant for life shall, where necessary, be deemed to refer to the determination by death or otherwise of the estate or interest of the person on whom the powers of a tenant for life are conferred by this section.

(3) For the purposes of this Act the estate or interest of a tenant by the curtesy shall be deemed to be an estate or interest arising under a settlement made by his wife.

(4) Where the reversion or right of reverter or other reversionary right is in the Crown, the exercise by a person on whom the powers of a tenant for life are conferred by this section of his powers under this Act, binds the Crown.

Absolute owners subject to certain interests to have the powers of tenant for life.

21.—(1) Where a person of full age is beneficially entitled in possession to a legal estate subject to any equitable interests or powers, then, for the purpose of overreaching such interests or powers, he may, notwithstanding any stipulation to the contrary, by deed (which shall have effect as a principal vesting deed within the meaning of this Act) declare that the legal estate is vested in him on trust to give effect to all equitable interests and powers affecting the legal estate, and that deed shall be executed by two or more individuals approved or appointed by the court or a trust corporation, who shall be stated to be the trustees of the settlement for the purposes of this Act.

Thereupon so long as any of the equitable interests and powers are subsisting the following provisions shall have effect:—

(*a*) The person so entitled as aforesaid and each of his successors in title being an estate owner shall have the powers of a tenant for life and the land shall be deemed to be settled land;

(*b*) The instrument (if any) under which his estate arises or is acquired, and the instrument (if any) under which the equitable interests or powers are subsisting or capable of taking effect shall be deemed to be the trust instrument:

Provided that where there is no such instrument as last aforesaid then a deed (which shall take effect as a trust instrument) shall be executed contemporaneously with the vesting deed, and shall declare the trusts affecting the land;

(*c*) The persons stated in the principal vesting deed to be the trustees of the settlement for the purposes of this Act shall also be the trustees of the trust instrument for those purposes; and

(*d*) Capital money arising on any disposition of the land shall be paid to or by the direction of the trustees of the settlement or into court, and shall be applicable towards discharging or providing for payment in due order of any principal money payable in respect of such interests or charges as are overreached by such disposition, and until so applied shall be invested or applied as capital money under the trust instrument, and the income thereof shall be applied as the income of such capital money, and be liable for keeping down in due order any annual or periodical sum which may be overreached by the disposition.

(2) The following equitable interests and powers are excepted from the operation of subsection (1) of this section, namely—

(i) an equitable interest protected by a deposit of documents relating to the legal estate affected;

(ii) the benefit of a covenant or agreement restrictive of the user of land;

(iii) an easement, liberty or privilege over or affecting land and being merely an equitable interest;

(iv) the benefit of a contract to convey or create a legal estate, including a contract conferring either expressly or by statutory implication a valid option of purchase, a right of pre-emption, or any other like right;

(v) any equitable interest protected by registration under the Land Charges Act, 1925, other than—

(*a*) an annuity within the meaning of Part II. of that Act;

(*b*) a limited owner's charge or a general equitable charge within the meaning of that Act.

(3) Subject to the powers conferred by this Act on a tenant for life, nothing contained in this section shall deprive an equitable chargee of any of his rights or of his remedies for enforcing those rights.

Provisions applicable where interest in settled land is restored.

22.—(1) Where by a disentailing assurance settled land is expressed to be limited (whether subject or not to any estates, interests, charges or powers expressly created or conferred thereby) upon the trusts subsisting with respect thereto immediately before the execution of such disentailing assurance, or any of such trusts, then, for the purposes of this Act and otherwise, a person entitled to any estate or interest in the settled land under any such previously subsisting trust is entitled thereto after the execution of such disentailing assurance as of his former estate or interest.

(2) Where by a resettlement of settled land any estate or interest therein is expressed to be limited to any person (whether subject or not to any estate, interest, charge or power expressly created or conferred by the resettlement) in restoration or confirmation of his estate or interest under a prior settlement, then, for the purposes of this Act and otherwise, that person is entitled to the estate or interest so restored or confirmed as of his former estate or interest, and in addition to the powers exercisable by him in respect of his former estate

or interest, he is capable of exercising all such further powers as he could have exercised by virtue of the resettlement, if his estate or interest under the prior settlement had not been so restored or confirmed, but he had been entitled under the resettlement only.

Powers of trustees, &c. when there is no tenant for life.

23.—(1) Where under a settlement there is no tenant for life nor, independently of this section, a person having by virtue of this Act the powers of a tenant for life then—

(*a*) any person of full age on whom such powers are by the settlement expressed to be conferred; and

(*b*) in any other case the trustees of the settlement;

shall have the powers of a tenant for life under this Act.

(2) This section applies to trustees of settlements of land purchased with money provided by Parliament in consideration of public services where the tenant in tail is restrained from barring or defeating his estate tail, except that, if the tenant in tail is of full age and capacity, the powers shall not be exercised without his consent, but a purchaser shall not be concerned to see or inquire whether such consent has been given.

As to a tenant for life who has parted with his interest.

24.—(1) If it is shown to the satisfaction of the court that a tenant for life, who has by reason of bankruptcy, assignment, incumbrance, or otherwise ceased in the opinion of the court to have a substantial interest in his estate or interest in the settled land or any part thereof, has unreasonably refused to exercise any of the powers conferred on him by this Act, or consents to an order under this section, the court may, on the application of any person interested in the settled land or the part thereof affected, make an order authorising the trustees of the settlement, to exercise in the name and on behalf of the tenant for life, any of the powers of a tenant for life under this Act, in relation to the settled land or the part thereof affected, either generally and in such manner and for such period as the court may think fit, or in a particular instance, and the court may by the order direct that any documents of title in the possession of the tenant for life relating to the settled land be delivered to the trustees of the settlement.

(2) While any such order is in force, the tenant for life shall not, in relation to the settled land or the part thereof affected, exercise any of the powers thereby authorised to be exercised in his name and on his behalf, but no person dealing with the tenant for life shall be affected by any such order, unless the order is for the time being registered as an order affecting land.

(3) An order may be made under this section at any time after the estate or interest of the tenant for life under the settlement has taken effect in possession, and notwithstanding that he disposed thereof when it was an estate or interest in remainder or reversion.

Married woman, how to be affected.

25.—(1) The foregoing provisions of this Act apply to a married woman of full age, whether or not she is entitled to her estate or interest for her separate use or as her separate property, and she, without her husband, may exercise the powers of a tenant for life under this Act.

(2) A restraint on anticipation in the settlement shall not prevent the exercise by her of any power under this Act.

Infants, how to be affected.

26.—(1) Where an infant is beneficially entitled in possession to land for an estate in fee simple or for a term of years absolute or would if of full age be a tenant for life of or have the powers of a tenant for life over settled land, then, during the minority of the infant—

(*a*) if the settled land is vested in a personal representative, the personal representative, until a principal vesting instrument has been executed pursuant to the provisions of this Act; and

(*b*) in every other case, the trustees of the settlement;

shall have, in reference to the settled land and capital money, all the powers conferred by this Act and the settlement on a tenant for life, and on the trustees of the settlement.

(2) If the settled land is vested in a personal representative, then, if and when during the minority the infant, if of full age, would have been entitled to have the legal estate in the settled land conveyed to

or otherwise vested in him pursuant to the provisions of this Act, a principal vesting instrument shall, if the trustees of the settlement so require, be executed, at the cost of the trust estate, for vesting the legal estate in themselves, and in the meantime the personal representatives shall, during the minority, give effect to the directions of the trustees of the settlement, and shall not be concerned with the propriety of any conveyance directed to be made by those trustees if the conveyance appears to be a proper conveyance under the powers conferred by this Act or by the settlement, and the capital money, if any, arising under the conveyance is paid to or by the direction of the trustees of the settlement or into court, but a purchaser dealing with the personal representative and paying the capital money, if any, to him shall not be concerned to see that the money is paid to trustees of the settlement or into court, or to inquire whether the personal representative is liable to give effect to any such directions, or whether any such directions have been given.

(3) Subsection (2) of this section applies whether the infant becomes entitled before or after the commencement of this Act, and has effect during successive minorities until a person of full age becomes entitled to require the settled land to be vested in him.

(4) This section does not apply where an infant is beneficially entitled in possession to land for an estate in fee simple or for a term of years absolute jointly with a person of full age (for which case provision is made in the Law of Property Act, 1925), but it applies to two or more infants entitled as aforesaid jointly, until one of them attains full age. 15 Geo. 5. c. 20.

(5) This section does not apply where an infant would, if of full age, constitute the tenant for life or have the powers of a tenant for life together with another person of full age, but it applies to two or more infants who would, if all of them were of full age, together constitute the tenant for life or have the powers of a tenant for life, until one of them attains full age.

(6) Nothing in this section affects prejudicially any beneficial interest of an infant.

Effect of conveying legal estate to infant.

27.—(1) A conveyance of a legal estate in land to an infant alone, or to two or more persons jointly, both or all of whom are infants, for his or their own benefit shall operate only as an agreement for valuable consideration to execute a settlement by means of a principal vesting deed and a trust instrument in favour of the infant or infants, and in the meantime to hold the land in trust for the infant or infants.

(2) Nothing in this Act prevents an equitable interest in settled land being vested in or transferred to an infant.

18 & 19 Vict. c. 43.

(3) Nothing in this Act affects the powers conferred by the Infant Settlements Act, 1855, provided that a legal estate in land is not vested in an infant.

Tenant for life lunatic.

28.—(1) Where a tenant for life is a lunatic or a defective, his committee or receiver may, in his name and on his behalf, under an order in lunacy exercise the powers of a tenant for life under this Act, and the order may be made on the application of any person interested in the settled land, or of the committee or receiver.

(2) Orders may be made under this section—

(*a*) either generally or in a particular instance;

(*b*) without requiring the estate of the lunatic or defective to be administered in lunacy;

(*c*) by appointing a receiver to act solely in relation to the settled land or in relation to particular settlement.

Charitable and public trusts.

29.—(1) For the purposes of this section, all land vested or to be vested in trustees on or for charitable, ecclesiastical, or public trusts or purposes shall be deemed to be settled land, and the trustees shall, without constituting them statutory owners, have in reference to the land, all the powers which are by this Act conferred on a tenant for life and on the trustees of a settlement.

In connexion only with the exercise of those powers, and not so as to impose any obligation in respect of or to affect—

(*a*) the mode of creation or the administration of such trusts; or

(*b*) the appointment or number of trustees of such trusts;

the statute or other instrument creating the trust or under which it is administered shall be deemed the settlement, and the trustees shall be deemed the trustees of the settlement, and, save where the trust is created by a will coming into operation after the commencement of this Act, a separate instrument shall not be necessary for giving effect to the settlement.

Any conveyance of land held on charitable, ecclesiastical or public trusts shall state that the land is held on such trusts, and, where a purchaser has notice that the land is held on charitable, ecclesiastical, or public trusts, he shall be bound to see that any consents or orders requisite for authorising the transaction have been obtained.

(2) The said powers shall be exercisable subject to such consents or orders, if any, being obtained as would, if this Act had not been passed, have been requisite if the transaction were being effected under an express power conferred by the instrument creating the trust, and where the land is vested in the official trustee of charity lands or in any other persons having no powers of management, the said powers shall be exercisable by the managing trustees or committee of management, and the official trustee or other persons aforesaid shall not be liable for giving effect to directions given by the managing trustees or committee of management:

Provided that where—

(*a*) a disposition or dealing is to be effected for a nominal price or rent, or for less than the best price or rent that can be reasonably obtained or gratuitously; or

(*b*) any interest in land is to be acquired;

the like consent or order (if any) shall be required in reference to the disposition, dealing or acquisition, as would have been requisite if the intended transaction were a sale.

(3) Nothing in this section affects the jurisdiction of the court, Charity Commissioners, Board of Education, or other competent authority, in regard to

the administration of charitable, ecclesiastical, or public trusts.

51 & 52 Vict. c. 42.

(4) Every assurance of land or of personal estate, within the meaning of section four of the Mortmain and Charitable Uses Act, 1888, or if the charitable uses are declared by a separate instrument, then that instrument, shall, in place of the requirements respecting attestation and enrolment prescribed by subsections (6) and (9) of that section, be sent to the offices of the Charity Commissioners within six months after the execution thereof or within such extended period as the said Commissioners may, either before or after the expiration of the six months, in any particular case allow, for the purpose of being recorded in the books of the said Commissioners.

Where the original cannot be produced, an attested or office copy may be sent instead of the original.

11 & 12 Geo. 5. c. 51.

This subsection does not apply to registered dispositions of registered land, or to assurances or instruments required by section one hundred and seventeen of the Education Act, 1921, to be sent to the Board of Education, and only applies to instruments executed after the commencement of this Act.

(5) Where any trustees or the majority of any set of trustees have power to transfer or create any legal estate, that estate shall be transferred or created by them in the names and on behalf of the persons (including the official trustee of charity lands) in whom the legal estate is vested.

15 Geo. 5. c. 24.

(6) This section applies (save as otherwise provided) whether the trust was created before or after the commencement of this Act, but does not apply to land to which the Universities and College Estates Act, 1925, applies.

Trustees of Settlement.

Who are trustees for purposes of Act.

30.—(1) Subject to the provisions of this Act, the following persons are trustees of a settlement for the purposes of this Act, and are in this Act referred to as

the "trustees of the settlement" or "trustees of a "settlement," namely—

(i) the persons, if any, who are for the time being under the settlement, trustees with power of sale of the settled land (subject or not to the consent of any person), or with power of consent to or approval of the exercise of such a power of sale, or if there are no such persons; then

(ii) the persons, if any, for the time being, who are by the settlement declared to be trustees thereof for the purposes of the Settled Land Acts, 1882 to 1890, or any of them, or this Act, or if there are no such persons; then

(iii) the persons, if any, who are for the time being under the settlement trustees with power of or upon trust for sale of any other land comprised in the settlement and subject to the same limitations as the land to be sold or otherwise dealt with, or with power of consent to or approval of the exercise of such a power of sale, or, if there are no such persons; then

(iv) the persons, if any, who are for the time being under the settlement trustees with future power of sale, or under a future trust for sale of the settled land, or with power of consent to or approval of the exercise of such a future power of sale, and whether the power or trust takes effect in all events or not, or, if there are no such persons; then

(v) the persons, if any, appointed by deed to be trustees of the settlement by all the persons who at the date of the deed were together able, by virtue of their beneficial interests or by the exercise of an equitable power, to dispose of the settled land in equity for the whole estate the subject of the settlement.

In Trustee Act 1925 s. 64

(2) Paragraphs (i) (iii) and (iv) of the last preceding subsection take effect in like manner as if the powers therein referred to had not by this Act been made exercisable by the tenant for life or statutory owner.

(3) Where a settlement is created by will, or a settlement has arisen by the effect of an intestacy, and apart

from this subsection there would be no trustees for the purposes of this Act of such settlement, then the personal representatives of the deceased shall, until other trustees are appointed, be by virtue of this Act the trustees of the settlement, but where there is a sole personal representative, not being a trust corporation, it shall be obligatory on him to appoint an additional trustee to act with him for the purposes of this Act, and the provisions of the Trustee Act, 1925, relating to the appointment of new trustees and the vesting of trust property shall apply accordingly.

As to trustees of compound settlements.

31.—(1) Persons who are for the time being trustees for the purposes of this Act of an instrument which is a settlement, or is deemed to be a subsisting settlement for the purposes of this Act, shall be the trustees for the purposes of this Act of any settlement constituted by that instrument and any instruments subsequent in date or operation.

(2) This section applies to instruments coming into operation before as well as after the commencement of this Act, but shall have effect without prejudice to any appointment made by the court before such commencement of trustees of a settlement constituted by more than one instrument, and to the power of the court in any case after such commencement to make any such appointment, and where any such appointment has been made before such commencement or is made thereafter this section shall not apply or shall cease to apply to the settlement consisting of the instruments to which the appointment relates.

As to trustees of referential settlements.

32.—(1) Where a settlement takes or has taken effect by reference to another settlement, the trustees for the time being of the settlement to which reference is made shall be the trustees of the settlement by reference, but this section does not apply if the settlement by reference contains an appointment of trustees thereof for the purposes of the Settled Land Acts, 1882 to 1890, or any of them, or this Act.

(2) This section applies to instruments coming into operation before as well as after the commencement of

this Act, but shall have effect without prejudice to any appointment made by the court before such commencement of trustees of a settlement by reference, or of the compound settlement consisting of a settlement and any other settlement or settlements made by reference thereto, and to the power of the court in any case after such commencement to make any such appointment, and where any such appointment has been made before such commencement or is made thereafter this section shall not apply or shall cease to apply.

(3) In this section "a settlement by reference to another settlement" means a settlement of property upon the limitations and subject to the powers and provisions of an existing settlement, with or without variation.

Continuance of trustees in office, and as to certain compound settlements.

33.—(1) Where any persons have been appointed or constituted trustees of a settlement, whether by an order of the court or otherwise, or have by reason of any power of sale, or trust for sale, or by reason of a power of consent to, or approval of, the exercise of a power of sale, or by virtue of this Act, or otherwise at any time become trustees of a settlement for the purposes of the Settled Land Acts, 1882 to 1890, or this Act, then those persons or their successors in office shall remain and be trustees of the settlement as long as that settlement is subsisting or deemed to be subsisting for the purposes of this Act.

In this subsection "successors in office" means the persons who, by appointment or otherwise, have become trustees for the purposes aforesaid.

(2) Where settled land is or has been expressed to be disposed of under a compound settlement of which trustees were appointed by the court, and the capital money (if any) arising on the disposition is or was paid to the persons who by virtue of the order or any subsequent appointment appear to be or to have been the trustees of that settlement, and where the person by or on whose behalf the disposition is or was made is or was the tenant for life or statutory owner of the land disposed of under an instrument mentioned in the order as constituting part of such compound settlement (in this subsection called "the principal instrument") then

the title of the person to whom the disposition is made shall not be impeachable on the ground—

(*a*) that the instruments mentioned in the order did not constitute a compound settlement; or

(*b*) that those instruments were not all the instruments at the date of the order or of the disposition constituting the compound settlement of the land disposed of; or

(*c*) that any of the instruments mentioned in the order did not form part of the settlement of the land disposed of, or had ceased to form part of the settlement at the date of the disposition;

but nothing in this subsection shall prejudice the rights of any person in respect of any estate, interest or charge under any instrument existing at the date of the order and not mentioned therein which would not have been overreached if the disposition had been made by or on behalf of the tenant for life or statutory owner under the principal instrument as such, and there had been trustees of that instrument for the purposes of the Settled Land Acts, 1882 to 1890, or this Act, and the capital money, if any, arising on the disposition had been paid to the trustees.

(3) The foregoing provisions of this section operate to confirm all dispositions made before the commencement of this Act, but not so as to render invalid or prejudice any order of the court, or any title or right acquired before the commencement of this Act, and operates without prejudice to any appointment already made by the court of trustees of a settlement, and to the power of the court in any case hereafter to make any such appointment.

Appointment of trustees by court.

34.—(1) If at any time there are no trustees of a settlement, or where in any other case it is expedient, for the purposes of this Act, that new trustees of a settlement be appointed, the court may, if it thinks fit, on the application of the tenant for life, statutory owner, or of any other person having, under the settlement, an estate or interest in the settled land, in possession,

remainder or otherwise, or, in the case of an infant, of his testamentary or other guardian or next friend, appoint fit persons to be trustees of the settlement.

(2) The persons so appointed, and the survivors and survivor of them, while continuing to be trustees or trustee, and, until the appointment of new trustees, the personal representatives or representative for the time being of the last surviving or continuing trustee, shall become and be the trustees or trustee of the settlement.

Procedure on appointment of new trustees.

35.—(1) Whenever a new trustee for the purposes of this Act is appointed of a trust instrument or a trustee thereof for the purposes aforesaid is discharged from the trust without a new trustee being appointed, a deed shall be executed supplemental to the last or only principal vesting instrument containing a declaration that the persons therein named, being the persons who after such appointment or discharge, as the case may be, are the trustees of the trust instrument for the purposes aforesaid, are the trustees of the settlement for those purposes; and a memorandum shall be endorsed on or annexed to the last or only principal vesting instrument in accordance with the Trustee Act, 1925.

15 Geo. 5. c. 19.

(2) Every such deed as aforesaid shall, if the trustee was appointed or discharged by the court, be executed by such person as the court may direct, and, in any other case, shall be executed by—

(i) the person, if any, named in the principal vesting instrument as the person for the time being entitled to appoint new trustees of the settlement, or if no person is so named, or the person is dead or unable or unwilling to act, the persons who if the principal vesting instrument had been the only instrument constituting the settlement would have had power to appoint new trustees thereof;

(ii) the persons named in the deed of declaration as the trustees of the settlement; and

(iii) any trustee who is discharged as aforesaid or retires.

(3) A statement contained in any such deed of declaration as is mentioned in this section to the effect

that the person named in the principal vesting instrument as the person for the time being entitled to appoint new trustees of the settlement is unable or unwilling to act, or that a trustee has remained outside the United Kingdom for more than twelve months, or refuses or is unfit to act, or is incapable of acting, shall in favour of a purchaser of a legal estate be conclusive evidence of the matter stated.

Provisions as to Undivided Shares.

Undivided shares to take effect behind a trust for sale of the land.

36.—(1) If and when, after the commencement of this Act, settled land is held in trust for persons entitled in possession under a trust instrument in undivided shares, the trustees of the settlement (if the settled land is not already vested in them) may require the estate owner in whom the settled land is vested (but in the case of a personal representative subject to his rights and powers for purposes of administration), at the cost of the trust estate, to convey the land to them, or assent to the land vesting in them as joint tenants, and in the meantime the land shall be held on the same trusts as would have been applicable thereto if it had been so conveyed to or vested in the trustees.

(2) If and when the settled land so held in trust in undivided shares is or becomes vested in the trustees of the settlement, the land shall be held by them (subject to any incumbrances affecting the settled land which are secured by a legal mortgage, but freed from any incumbrances affecting the undivided shares or not secured as aforesaid, and from any interests, powers and charges subsisting under the trust instrument which have priority to the trust for the persons entitled to the undivided shares) upon the statutory trusts.

(3) If the estate owner refuses or neglects for one month after demand in writing to convey the settled land so held in trust in undivided shares in manner aforesaid, or if by reason of his being outside the United Kingdom or being unable to be found, or by reason of the dissolution of a corporation, or for any other reason, the court is satisfied that the conveyance cannot otherwise be made, or cannot be made without undue delay or

expense, the court may, on the application of the trustees of the settlement, make an order vesting the settled land in them on the statutory trusts.

(4) An undivided share in land shall not be capable of being created except under a trust instrument or under the Law of Property Act, 1925, and shall then only take effect behind a trust for sale.

(5) Nothing in this section affects the priority inter se of any incumbrances whether affecting the entirety of the land or an undivided share.

(6) For the purposes of this section land held upon the statutory trusts shall be held upon the trusts and subject to the provisions following, namely, upon trust to sell the same, with power to postpone the sale of the whole or any part thereof, and to stand possessed of the net proceeds of sale, after payment of costs, and of the net rents and profits until sale, after payment of rates, taxes, costs of insurance, repairs, and other outgoings, upon such trusts and subject to such powers and provisions as may be requisite for giving effect to the rights of the persons interested in the settled land.

(7) The provisions of this section bind the Crown.

Transitional Provisions.

37. The transitional provisions set out in the Second Schedule to this Act shall have effect as regards settlements existing at the commencement of this Act.

Transitional provisions with respect to existing settlements, &c.

Part II.

Powers of a Tenant for Life.

Sale and Exchange.

38. A tenant for life—

Powers of sale and exchange.

(i) May sell the settled land, or any part thereof, or any easement, right or privilege of any kind over or in relation to the land; and

(ii) Where the settlement comprises a manor, may sell the seignory of any freehold land

within the manor, with or without any exception or reservation of all or any mines or minerals, or of any rights or powers relative to mining purposes, so as in every such case to effect an extinguishment of the manorial incidents; and

(iii) May make an exchange of the settled land, or any part thereof, or of any easement, right, or privilege of any kind, whether or not newly created, over or in relation to the settled land, or any part thereof, for other land, or for any easement, right or privilege of any kind, whether or not newly created, over or in relation to other land, including an exchange in consideration of money paid for equality of exchange.

Regulations respecting sales.

39.—(1) Save as hereinafter provided every sale shall be made for the best consideration in money that can reasonably be obtained.

(2) A sale may be made in consideration wholly or partially of a perpetual rent, or a terminable rent consisting of principal and interest combined, payable yearly or half yearly to be secured upon the land sold, or the land to which the easement, right or privilege sold is to be annexed in enjoyment or an adequate part thereof.

In the case of a terminable rent, the conveyance shall distinguish the part attributable to principal and that attributable to interest, and the part attributable to principal shall be capital money arising under this Act:

Provided that, unless the part of the terminable rent attributable to interest varies according to the amount of the principal repaid, the trustees of the settlement shall, during the subsistence of the rent, accumulate the income of the said capital money in the way of compound interest by investing it and the resulting income thereof in securities authorised for the investment of capital money and shall add the accumulations to capital.

(3) The rent to be reserved on any such sale shall be the best rent that can reasonably be obtained, regard

being had to any money paid as part of the consideration, or laid out, or to be laid out, for the benefit of the settled land, and generally to the circumstances of the case, but a peppercorn rent, or a nominal or other rent less than the rent ultimately payable, may be made payable during any period not exceeding five years from the date of the conveyance.

(4) Where a sale is made in consideration of a rent, the following provisions shall have effect :—

(i) The conveyance shall contain a covenant by the purchaser for payment of the rent, and a condition of re-entry on the rent not being paid within a time therein specified not exceeding thirty days;

(ii) A duplicate of the conveyance shall be executed by the purchaser and delivered to the tenant for life or statutory owner, of which execution and delivery the execution of the conveyance by the tenant for life or statutory owner shall be sufficient evidence;

(iii) A statement, contained in the conveyance or in an indorsement thereon, signed by the tenant for life or statutory owner, respecting any matter of fact or of calculation under this Act in relation to the sale, shall, in favour of the purchaser and of those claiming under him, be sufficient evidence of the matter stated.

(5) The consideration on a sale to any company incorporated by special Act of Parliament or by provisional order confirmed by Parliament or by any other order, scheme or certificate having the force of an Act of Parliament, may, with the consent of the tenant for life, consist, wholly or in part, of fully-paid securities of any description of the company, and such securities shall be vested in the trustees of the settlement and shall be subject to the provisions of this Act relating to securities representing capital money arising under this Act, and may be retained and held by the trustees in like manner as if they had been authorised by this Act for the investment of capital money.

(6) A sale may be made in one lot or in several lots, and either by auction or by private contract, and

may be made subject to any stipulations respecting title, or evidence of title, or other things.

(7) On a sale the tenant for life may fix reserve biddings and may buy in at an auction.

Regulations respecting exchanges.

40.—(1) Save as in this Part of this Act provided, every exchange shall be made for the best consideration in land or in land and money that can reasonably be obtained.

(2) An exchange may be made subject to any stipulations respecting title, or evidence of title, or other things.

(3) Settled land in England or Wales shall not be given in exchange for land out of England and Wales.

Leasing Powers.

Power to lease for ordinary or building or mining or forestry purposes.

41. A tenant for life may lease the settled land, or any part thereof, or any easement, right, or privilege of any kind over or in relation to the land, for any purpose whatever, whether involving waste or not, for any term not exceeding—

(i) In case of a building lease, nine hundred and ninety-nine years;

(ii) In case of a mining lease, one hundred years;

(iii) In case of a forestry lease, nine hundred and ninety-nine years;

(iv) In case of any other lease, fifty years.

Regulations respecting leases generally.

42.—(1) Save as hereinafter provided, every lease—

(i) shall be by deed, and be made to take effect in possession not later than twelve months after its date, or in reversion after an existing lease having not more than seven years to run at the date of the new lease;

(ii) shall reserve the best rent that can reasonably be obtained, regard being had to any fine taken, and to any money laid out or to be laid out for the benefit of the settled land, and generally to the circumstances of the case;

(iii) shall contain a covenant by the lessee for payment of the rent, and a condition of re-entry on the rent not being paid within a time therein specified not exceeding thirty days.

(2) A counterpart of every lease shall be executed by the lessee and delivered to the tenant for life or statutory owner, of which execution and delivery the execution of the lease by the tenant for life or statutory owner shall be sufficient evidence.

(3) A statement, contained in a lease or in an indorsement thereon, signed by the tenant for life or statutory owner, respecting any matter of fact or of calculation under this Act in relation to the lease, shall, in favour of the lessee and of those claiming under him, be sufficient evidence of the matter stated.

(4) A fine received on the grant of a lease under any power conferred by this Act shall be deemed to be capital money arising under this Act.

(5) A lease at the best rent that can be reasonably obtained without fine, and whereby the lessee is not exempted from punishment for waste, may be made—

(i) Where the term does not exceed twenty-one years—

(*a*) without any notice of an intention to make the lease having been given under this Act; and

(*b*) notwithstanding that there are no trustees of the settlement; and

(ii) Where the term does not extend beyond three years from the date of the writing, by any writing under hand only containing an agreement instead of a covenant by the lessee for payment of rent.

Leasing powers for special objects.

43. The leasing power of a tenant for life extends to the making of—

(i) a lease for giving effect (in such manner and so far as the law permits) to a covenant of renewal, performance whereof could be enforced against the owner for the time being of the settled land; and

(ii) a lease for confirming, as far as may be, a previous lease being void or voidable, but so that every lease, as and when confirmed, shall be such a lease as might at the date of the original lease have been lawfully granted under this Act or otherwise, as the case may require.

Provisions as to building, mining and forestry leases.

Regulations respecting building leases.

44.—(1) Every building lease shall be made partly in consideration of the lessee, or some person by whose direction the lease is granted, or some other person, having erected or agreeing to erect buildings, new or additional, or having improved or repaired or agreeing to improve or repair buildings, or having executed or agreeing to execute on the land leased, an improvement authorised by this Act for or in connexion with building purposes.

(2) A peppercorn rent or a nominal or other rent less than the rent ultimately payable, may be made payable for the first five years or any less part of the term.

(3) Where the land is contracted to be leased in lots, the entire amount of rent to be ultimately payable may be apportioned among the lots in any manner:

Provided that—

(i) the annual rent reserved by any lease shall not be less than ten shillings; and

(ii) the total amount of the rents reserved on all leases for the time being granted shall not be less than the total amount of the rents which, in order that the leases may be in conformity with this Act, ought to be reserved in respect of the whole land for the time being leased; and

(iii) the rent reserved by any lease shall not exceed one-fifth part of the full annual value of the land comprised in that lease with the buildings thereon when completed.

Regulations respecting mining leases.

45.—(1) In a mining lease—

(i) the rent may be made to be ascertainable by or to vary according to the acreage worked, or by or according to the quantities of any mineral or substance gotten, made merchantable, converted, carried away, or disposed of,

in or from the settled land, or any other land, or by or according to any facilities given in that behalf; and

(ii) the rent may also be made to vary according to the price of the minerals or substances gotten, or any of them, and such price may be the saleable value, or the price or value appearing in any trade or market or other price list or return from time to time, or may be the marketable value as ascertained in any manner prescribed by the lease (including a reference to arbitration), or may be an average of any such prices or values taken during a specified period; and

(iii) a fixed or minimum rent may be made payable, with or without power for the lessee, in case the rent, according to acreage or quantity or otherwise, in any specified period does not produce an amount equal to the fixed or minimum rent, to make up the deficiency in any subsequent specified period, free of rent other than the fixed or minimum rent.

(2) A lease may be made partly in consideration of the lessee having executed, or agreeing to execute, on the land leased an improvement authorised by this Act, for or in connexion with mining purposes.

Variation of building or mining lease according to circumstances of district.

46.—(1) Where it is shown to the court with respect to the district in which any settled land is situate, either—

(i) that it is the custom for land therein to be leased for building or mining purposes for a longer term or on other conditions than the term or conditions specified in that behalf in this Act; or

(ii) that it is difficult to make leases for building or mining purposes of land therein, except for a longer term or on other conditions than the term and conditions specified in that behalf in this Act;

the court may, if it thinks fit, authorise generally the tenant for life or statutory owner to make from time

to time leases of or affecting the settled land in that district, or parts thereof for any term or on any conditions as in the order of the court expressed, or may, if it thinks fit, authorise the tenant for life or statutory owner to make any such lease in any particular case.

(2) Thereupon the tenant for life or statutory owner, and, subject to any direction in the order of the court to the contrary, each of his successors in title being a tenant for life or statutory owner, may make in any case, or in the particular case, a lease of the settled land, or part thereof, in conformity with the order.

Capitalisation of part of mining rent.

47. Under a mining lease, whether the mines or minerals leased are already opened or in work or not, unless a contrary intention is expressed in the settlement, there shall be from time to time set aside, as capital money arising under this Act, part of the rent as follows, namely—where the tenant for life or statutory owner is impeachable for waste in respect of minerals, three fourth parts of the rent, and otherwise one fourth part thereof, and in every such case the residue of the rent shall go as rents and profits.

Regulations respecting forestry leases.

48.—(1) In the case of a forestry lease—

(i) a peppercorn rent or a nominal or other rent less than the rent ultimately payable, may be made payable for the first ten years or any less part of the term;

(ii) the rent may be made to be ascertainable by, or to vary according to the value of the timber on the land comprised in the lease, or the produce thereof, which may during any year be cut, converted, carried away, or otherwise disposed of;

(iii) a fixed or minimum rent may be made payable, with or without power for the lessee, in case the rent according to value in any specified period does not produce an amount equal to the fixed or minimum rent, to make up the deficiency in any subsequent specified period, free of rent other than the fixed or minimum rent; and

(iv) any other provisions may be made for the sharing of the proceeds or profits of the user of the land between the reversioner and the Forestry Commissioners.

(2) In this section the expression " timber " includes all forest products.

Miscellaneous Powers.

Power on dispositions to impose restrictions and make reservations and stipulations.

49.—(1) On a sale or other disposition or dealing under the powers of this Act—

(*a*) any easement, right, or privilege of any kind may be reserved or granted over or in relation to the settled land or any part thereof or other land, including the land disposed of, and, in the case of an exchange, the land taken in exchange; and

(*b*) any restriction with respect to building on or other user of land, or with respect to mines and minerals, or with respect to or for the purpose of the more beneficial working thereof, or with respect to any other thing, may be imposed and made binding, as far as the law permits, by covenant, condition or otherwise, on the tenant for life or statutory owner and the settled land or any part thereof, or on the other party and any land disposed of to him; and

(*c*) the whole or any part of any capital or annual sum (and in the case of an annual sum whether temporary or perpetual) charged on or payable out of the land disposed of, or any part thereof, and other land subject to the settlement, may as between the tenant for life or statutory owner and his successors in title, and the other party and persons deriving title under or in succession to him (but without prejudice to the rights of the person entitled to such capital or annual sum) be charged exclusively on the land disposed of, or any part thereof, or such other land as aforesaid, or any part thereof, in exoneration of the rest of the land on or out of which such capital or annual sum is charged or payable.

(2) A sale of land may be made subject to a stipulation that all or any of the timber and other trees,

pollards, tellers, underwood, saplings and plantations on the land sold (in this section referred to as "timber") or any articles attached to the land (in this section referred to as "fixtures") shall be taken by the purchaser at a valuation, and the amount of the valuation shall form part of the price of the land, and shall be capital money accordingly.

(3) Where on a sale the consideration attributable to any timber or fixtures is by mistake paid to a tenant for life or other person not entitled to receive it, then, if such person or the purchaser or the persons deriving title under either of them subsequently pay the aforesaid consideration, with such interest, if any, thereon as the court may direct, to the trustees of the settlement or other persons entitled thereto or into court, the court may, on the application of the purchaser or the persons deriving title under him, declare that the disposition is to take effect as if the whole of the consideration had at the date thereof been duly paid to the trustees of the settlement or other persons entitled to receive the same.

The person, not entitled to receive the same, to whom the consideration is paid, and his estate and effects shall remain liable to make good any loss attributable to the mistake.

Separate dealing with surface and minerals, with or without wayleaves, &c.

50. A sale, exchange, lease or other authorised disposition, may be made either of land, with or without an exception or reservation of all or any of the mines and minerals therein, or of any mines and minerals, and in any such case with or without a grant or reservation of powers of working, wayleaves or rights of way, rights of water and drainage, and other powers, easements, rights, and privileges for or incident to or connected with mining purposes, in relation to the settled land, or any part thereof, or any other land.

Power to grant options.

51.—(1) A tenant for life may at any time, either with or without consideration, grant by writing an option to purchase or take a lease of the settled land, or any part thereof, or any easement, right, or privilege over or in relation to the same at a price or rent fixed at the time of the granting of the option.

(2) Every such option shall be made exercisable within an agreed number of years not exceeding ten.

(3) The price or rent shall be the best which, having regard to all the circumstances, can reasonably be obtained and either—

(*a*) may be a specified sum of money or rent, or at a specified rate according to the superficial area of the land with respect to which the option is exercised, or the frontage thereof or otherwise; or

(*b*) in the case of an option to purchase contained in a lease or agreement for a lease, may be a stated number of years' purchase of the highest rent reserved by the lease or agreement; or

(*c*) if the option is exercisable as regards part of the land comprised in the lease or agreement, may be a proportionate part of such highest rent;

and any aggregate price or rent may be made to be apportionable in any manner, or according to any system, or by reference to arbitration.

(4) An option to take a mining lease may be coupled with the grant of a licence to search for and prove any mines or minerals under the settled land, or any part thereof, pending the exercise of the option.

(5) The consideration for the grant of the option shall be capital money arising under this Act.

Surrenders and regrants.

52.—(1) A tenant for life may accept, with or without consideration, a surrender of any lease of settled land, whether made under this Act or not, or a regrant of any land granted in fee simple, whether under this Act or not, in respect of the whole land leased or granted, or any part thereof, with or without an exception of all or any of the mines and minerals therein, or in respect of mines and minerals, or any of them, and with or without an exception of any easement, right or privilege of any kind over or in relation to the land surrendered or regranted.

(2) On a surrender of a lease, or a regrant of land granted in fee simple, in respect of part only of the land or mines and minerals leased or granted, the rent or rentcharge may be apportioned.

(3) On a surrender or regrant, the tenant for life may in relation to the land or mines and minerals surrendered or regranted, or of any part thereof, make

a new or other lease, or grant in fee simple, or new or other leases, or grants in fee simple, in lots.

(4) A new or other lease, or grant in fee simple, may comprise additional land or mines and minerals, and may reserve any apportioned or other rent or rentcharge.

(5) On a surrender or regrant, and the making of a new or other lease, whether for the same or for any extended or other term, or of a new or other grant in fee simple, and whether or not subject to the same or to any other covenants, provisions, or conditions, the value of the lessee's or grantee's interest in the lease surrendered, or the land regranted, may be taken into account in the determination of the amount of the rent or rentcharge to be reserved, and of any fine or consideration in money to be taken, and of the nature of the covenants, provisions, and conditions to be inserted in the new or other lease, or grant in fee simple.

(6) Every new or other lease, or grant in fee simple, shall be in conformity with this Act.

(7) All money, not being rent or a rentcharge, received on the exercise by the tenant for life of the powers conferred by this section, shall, unless the court, on an application made within six months after the receipt thereof or within such further time as the court may in special circumstances allow, otherwise directs, be capital money arising under this Act.

(8) A regrant shall be made to the tenant for life or statutory owner, and shall be deemed a subsidiary vesting deed, and the statements and particulars required in the case of subsidiary vesting deeds shall be inserted therein.

(9) In this section "land granted in fee simple" means land so granted with or subject to a reservation thereout of a perpetual or terminable rentcharge which is or forms part of the settled land, and "grant in fee simple" has a corresponding meaning.

Acceptance of leases.

53.—(1) A tenant for life may accept a lease of any land, or of any mines and minerals or of any easement, right, or privilege, convenient to be held or worked with or annexed in enjoyment to the settled land, or any part thereof, for such period, and upon such terms and conditions, as the tenant for life thinks fit:

Provided that no fine shall be paid out of capital money in respect of such lease.

(2) The lease shall be granted to the tenant for life or statutory owner, and shall be deemed a subsidiary vesting deed, and the statements and particulars required in the case of subsidiary vesting deeds shall either be inserted therein or endorsed thereon.

(3) The lease may contain an option to purchase the reversion expectant on the term thereby granted.

Power to grant water rights to statutory bodies.

54.—(1) For the development, improvement, or general benefit of the settled land, or any part thereof, a tenant for life may make a grant in fee simple or absolutely, or a lease for any term of years absolute, for a nominal price or rent, or for less than the best price or rent that can reasonably be obtained, or gratuitously, to any statutory authority, of any water or streams or springs of water in, upon, or under the settled land, and of any rights of taking, using, enjoying and conveying water, and of laying, constructing, maintaining, and repairing mains, pipes, reservoirs, dams, weirs and other works of any kind proper for the supply and distribution of water, and of any part of the settled land required as a site for any of the aforesaid works, and of any easement, right or privilege over or in relation to the settled land or any part thereof in connexion with any of the aforesaid works.

(2) This section does not authorise the creation of any greater rights than could have been created by a person absolutely entitled for his own benefit to the settled land affected.

(3) In this section "statutory authority" means an authority or company for the time being empowered by any Act of Parliament, public general, or local or private, or by any order or certificate having the force of an Act of Parliament, to provide with a supply of water any town, parish or place in which the settled land or any part thereof is situated.

(4) All money, not being rent, received on the exercise of any power conferred by this section shall be capital money arising under this Act.

Power to grant land for public and charitable purposes.

55.—(1) For the development, improvement, or general benefit of the settled land, or any part thereof, a tenant for life may make a grant in fee simple, or absolutely, or a lease for any term of years absolute, for a nominal price or rent, or for less than the best

price or rent that can reasonably be obtained, or gratuitously, of any part of the settled land, with or without any easement, right or privilege over or in relation to the settled land or any part thereof, for all or any one or more of the following purposes, namely :—

(i) For the site, or the extension of any existing site, of a place of religious worship, residence for a minister of religion, school house, town hall, market house, public library, public baths, museum, hospital, infirmary, or other public building, literary or scientific institution, drill hall, working-men's club, parish room, reading room or village institute, with or without in any case any yard, garden, or other ground to be held with any such building; or

(ii) For the construction, enlargement, or improvement of any railway, canal, road (public or private), dock, sea-wall, embankment, drain, watercourse, or reservoir; or

(iii) For any other public or charitable purpose in connexion with the settled land, or any part thereof, or tending to the benefit of the persons residing, or for whom dwellings may be erected, on the settled land, or any part thereof.

Not more than one acre shall in any particular case be conveyed for any purpose mentioned in paragraphs (i) and (iii) of this subsection, nor more than five acres for any purpose mentioned in paragraph (ii) of this subsection, unless the full consideration be paid or reserved in respect of the excess.

(2) All money, not being rent, received on the exercise of any power conferred by this section shall be capital money arising under this Act.

Dedication for streets, open spaces, &c.

56.—(1) On or after or in connexion with a sale or grant for building purposes, or a building lease, or the development as a building estate of the settled land, or any part thereof, or at any other reasonable time, the tenant for life, for the general benefit of the residents on the settled land, or on any part thereof—

(i) may cause or require any parts of the settled land to be appropriated and laid out for streets, roads, paths, squares, gardens, or other open spaces, for the use, gratuitously or on payment, of the public or of individuals, with sewers,

drains, watercourses, fencing, paving, or other works necessary or proper in connexion therewith; and

(ii) may provide that the parts so appropriated shall be conveyed to or vested in the trustees of the settlement, or other trustees, or any company or public body, on trusts or subject to provisions for securing the continued appropriation thereof to the purposes aforesaid, and the continued repair or maintenance of streets and other places and works aforesaid, with or without provision for appointment of new trustees when required; and

(iii) may execute any general or other deed necessary or proper for giving effect to the provisions of this section (which deed may be inrolled in the Central Office of the Supreme Court), and thereby declare the mode, terms, and conditions of the appropriation, and the manner in which and the persons by whom the benefit thereof is to be enjoyed, and the nature and extent of the privileges and conveniences granted.

(2) In regard to the dedication of land for the public purposes aforesaid, a tenant for life shall be in the same position as if he were an absolute owner.

(3) A tenant for life shall have power—

(*a*) to enter into any agreement for the recompense to be made for any part of the settled land which is required for the widening of a highway under section eighty-two of the Highway Act, 1835, or otherwise; 5 & 6 Will. 4. c. 50.

(*b*) to consent to the diversion of any highway over the settled land under section eighty-five of that Act, or otherwise; and

(*c*) to consent to any such road as is mentioned in section thirty-six of the Highway Act, 1862, being declared a public highway; 25 & 26 Vict. c. 61.

and any agreement or consent so made or given shall be as valid and effectual, for all purposes, as if made or given by an absolute owner of the settled land.

(4) All money, not being rent, received on the exercise of any power conferred by this section shall be capital money arising under this Act.

Provision of land for small dwellings, small holdings and dwellings for working classes.

57.—(1) Where land is sold, or given in exchange or leased—

(*a*) for the purpose of the erection on such land of small dwellings; or

(*b*) to the council of a county or county borough for the purposes of small holdings;

the sale, exchange, or lease may, notwithstanding anything contained in this Act, be made for such consideration in money, or land, or in land and money, or may reserve such rent, as having regard to the said purposes and to all the circumstances of the case, is the best that can reasonably be obtained, notwithstanding that a better consideration or rent might have been obtained if the land were sold, exchanged, or leased, for another purpose.

(2) Notwithstanding anything contained in, and in addition to the other powers conferred by this Act, a tenant for life may at any time—

(*a*) for the purpose of the erection of dwellings for the working classes, or the provision of gardens to be held therewith; or

(*b*) for the purpose of the Small Holdings and Allotments Acts, 1908 to 1919;

make a grant in fee simple or absolutely, or a lease for any term of years absolute of any part of the settled land, with or without any easement, right or privilege of any kind over or in relation to the settled land or any part thereof, for a nominal price or rent, or for less than the best price or rent that can reasonably be obtained or gratuitously:

Provided that, except under an order of the court, not more than two acres in the case of land situate in an urban district, or ten acres in the case of land situate in a rural district, in any one parish shall be granted or leased under the powers conferred by this subsection, unless the full consideration be paid or reserved in respect of the excess.

(3) All money, not being rent, received on the exercise of any power conferred by this section shall be capital money arising under this Act.

Power to compromise

58.—(1) A tenant for life may, with the consent in writing of the trustees of the settlement, either with

or without giving or taking any consideration in money or otherwise, compromise, compound, abandon, submit to arbitration, or otherwise settle any claim, dispute, or question whatsoever relating to the settled land, or any part thereof, including in particular claims, disputes or questions as to boundaries, the ownership of mines and minerals, rights and powers of working mines and minerals, local laws and customs relative to the working of mines and minerals and other matters, manorial incidents, easements, and restrictive covenants, and for any of those purposes may enter into, give, execute, and do such agreements, assurances, releases, and other things as the tenant for life may, with such consent as aforesaid, think proper. claims and release restrictions, &c.

(2) A tenant for life may, with the consent in writing of the trustees of the settlement, at any time, by deed or writing, either with or without consideration in money or otherwise, release, waive, or modify, or agree to release, waive, or modify, any covenant, agreement, or restriction imposed on any other land for the benefit of the settled land, or any part thereof, or release, or agree to release, any other land from any easement, right or privilege, including a right of pre-emption, affecting the same for the benefit of the settled land, or any part thereof.

(3) A tenant for life may contract that a transaction effected before or after the commencement of this Act, which (whether subject or not to any variation authorised by this subsection) is affected by section seventy-eight of the Railway Clauses Consolidation Act, 1845, or by section twenty-two of the Waterworks Clauses Act, 1847 (relating to support by minerals) shall take effect as if some other distance than forty yards or the prescribed distance had been mentioned in such sections or had been otherwise prescribed. 8 & 9 Vict. c. 20. 10 & 11 Vict. c. 17.

In any case where section seventy-eight aforesaid has effect as amended and re-enacted by Part II. of the Mines (Working Facilities and Support) Act, 1923, a tenant for life may make any agreement authorised by section eighty-five A of the Railway Clauses Consolidation Act, 1845, as enacted in the said Part II. 13 & 14 Geo. 5. c. 20.

59.—(1) A tenant for life may, at any time, by deed, either with or without consideration in money or Power to vary leases and grants

and to give licences and consents.

otherwise, vary, release, waive or modify, either absolutely or otherwise, the terms of any lease whenever made of the settled land or any part thereof, or any covenants or conditions contained in any grant in fee simple whenever made of land with or subject to a reservation thereout of a rent which is or forms part of the settled land, and in either case in respect of the whole or any part of the land comprised in any such lease or grant, but so that every such lease or grant shall, after such variation, release, waiver or modification as aforesaid, be such a lease or grant as might then have been lawfully made under this Act if the lease had been surrendered, or the land comprised in the grant had never been so comprised, or had been regranted.

(2) Where land is or has been disposed of subject to any covenant requiring the licence, consent, or approval of the covenantee or his successors in title as to—

(*a*) the user of the land in any manner; or

(*b*) the erection construction or alteration of or addition to buildings or works of any description on the land; or

(*c*) the plans or elevations of any proposed buildings or other works on the land; or

(*d*) any other act, matter, or thing relating to the land, or any buildings or works thereon; or

(*e*) any assignment, under-letting or parting with the possession of all or any part of the property comprised in any lease affecting the settled land;

and the covenant enures for the benefit of settled land (including, where the disposition is a lease, the reversion expectant on the determination thereof), the licence, consent or approval may be given by the tenant for life of the settled land affected.

Power to apportion rents.

60.—(1) A tenant for life may, at any time, by deed, either with or without consideration in money or otherwise, agree for the apportionment of any rent reserved or created by any such lease or grant as mentioned in the last preceding section, or any rent being or forming part of the settled land, so that the apportioned parts of such rent shall thenceforth be payable exclusively out of or in respect of such respective portions of the land

subject thereto as may be thought proper, and also agree that any covenants, agreements, powers, or remedies for securing such rent and any other covenants or agreements by the lessee or grantee and any conditions shall also be apportioned and made applicable exclusively to the respective portions of the land out of or in respect of which the apportioned parts of such rent shall thenceforth be payable.

(2) Where the settled land, or any part thereof, is held or derived under a lease, or under a grant reserving rent, or subject to covenants, agreements or conditions, whether such lease or grant comprises other land or not, the tenant for life may at any time by deed, with or without giving or taking any consideration in money or otherwise, procure the variation, release, waiver, or modification, either absolutely or otherwise, of the terms, covenants, agreements, or conditions contained in such lease or grant, in respect of the whole or any part of the settled land comprised therein, including the apportionment of any rent, covenants, agreements, conditions, and provisions reserved, or created by, or contained in, such lease or grant.

(3) This section applies to leases or grants made either before or after the commencement of this Act.

Provisions as to consideration.

61.—(1) All money, not being rent, payable by the tenant for life in respect of any transaction to which any of the three last preceding sections relates shall be paid out of capital money arising under this Act, and all money, not being rent, received on the exercise by the tenant for life of the powers conferred by any of those sections, shall, unless the court, on an application made within six months after the receipt thereof or within such further time as the court may in special circumstances allow, otherwise directs, be capital money arising under this Act.

(2) For the purpose of the three last preceding sections " consideration in money or otherwise " means—

(*a*) a capital sum of money or a rent;

(*b*) land being freehold or leasehold for any term of years whereof not less than sixty years shall be unexpired;

(*c*) any easement, right or privilege over or in relation to the settled land, or any part thereof, or any other land;

(*d*) the benefit of any restrictive covenant or condition; and

(*e*) the release of the settled land, or any part thereof, or any other land, from any easement, right or privilege, including a right of pre-emption, or from the burden of any restrictive covenant or condition affecting the same.

Special provisions as to manorial incidents, &c.

62.—(1) Where rights to manorial incidents are comprised in a settlement the tenant for life may, as respects any fines payable in respect of an alienation in lieu of a fine payable for a licence authorising the alienation, agree the amount of the fine if it is not fixed by the custom of the manor.

(2) Any gross sum or an instalment thereof (attributable to capital) received in respect of the extinguishment of manorial incidents shall be capital money arising under this Act.

(3) Where a manor, manorial incident or enfranchised land is comprised in a settlement, the tenant for life under the settlement, shall have the powers conferred by Part VI of the Law of Property Act, 1922, on the lord or the tenant (as the case may be) in reference to a compensation agreement and matters incidental thereto.

12 & 13 Geo. 5. c. 16.

In this subsection "enfranchised land" "lord" and "tenant" have the same meanings as in the Law of Property Act, 1922.

(4) In reference to the conversion of a perpetually renewable lease or underlease into a long term, a tenant for life may enter into such agreements and do such acts and things as the lessor or lessee or underlessee, as the case may require, is, by any enactment authorised to enter into or do.

Power to complete predecessor's contracts.

63. A tenant for life may make any disposition which is necessary or proper for giving effect to a contract entered into by a predecessor in title, and which if made by that predecessor would have been valid as against his successors in title.

General power for the tenant for life to effect any transaction under an

64.—(1) Any transaction affecting or concerning the settled land, or any part thereof, or any other land (not being a transaction otherwise authorised by this Act, or by the settlement) which in the opinion of the court would be for the benefit of the settled land, or any part thereof, or the persons interested under the settlement,

may, under an order of the court, be effected by a tenant for life, if it is one which could have been validly effected by an absolute owner. order of the court.

(2) In this section "transaction" includes any sale, extinguishment of manorial incidents, exchange, assurance, grant, lease, surrender, reconveyance, release, reservation, or other disposition, and any purchase or other acquisition, and any covenant, contract, or option, and any application of capital money (except as hereinafter mentioned), and any compromise or other dealing, or arrangement; but does not include an application of capital money in payment for any improvement not authorised by this Act, or by the settlement; and "effected" has the meaning appropriate to the particular transaction; and the references to land include references to restrictions and burdens affecting land.

Provisions as to special classes of property.

65.—(1) The powers of disposing of settled land conferred by this Act on a tenant for life may be exercised as respects the principal mansion house, if any, on any settled land, and the pleasure grounds and park and lands, if any, usually occupied therewith: Power to dispose of mansion.

Provided that those powers shall not be exercised without the consent of the trustees of the settlement or an order of the court—

(*a*) if the settlement is a settlement made or coming into operation before the commencement of this Act and the settlement does not expressly provide to the contrary; or

(*b*) if the settlement is a settlement made or coming into operation after the commencement of this Act and the settlement expressly provides that these powers or any of them shall not be exercised without such consent or order.

(2) Where a house is usually occupied as a farmhouse, or where the site of any house and the pleasure grounds and park and lands, if any, usually occupied therewith do not together exceed twenty-five acres in extent, the house is not to be deemed a principal mansion house

within the meaning of this section, and may accordingly be disposed of in like manner as any other part of the settled land.

Cutting and sale of timber, and capitalisation of part of proceeds.

66.—(1) Where a tenant for life is impeachable for waste in respect of timber, and there is on the settled land timber ripe and fit for cutting, the tenant for life, on obtaining the consent of the trustees of the settlement or an order of the court, may cut and sell that timber, or any part thereof.

(2) Three fourth parts of the net proceeds of the sale shall be set aside as and be capital money arising under this Act, and the other fourth part shall go as rents and profits.

Sale and purchase of heirlooms under order of court.

67.—(1) Where personal chattels are settled so as to devolve with settled land, or to devolve therewith as nearly as may be in accordance with the law or practice in force at the date of the settlement, or are settled together with land, or upon trusts declared by reference to the trusts affecting land, a tenant for life of the land may sell the chattels or any of them.

(2) The money arising by the sale shall be capital money arising under this Act, and shall be paid, invested, or applied and otherwise dealt with in like manner in all respects as by this Act directed with respect to other capital money arising under this Act, or may be invested in the purchase of other chattels of the same or any other nature, which, when purchased, shall be settled and held on the same trusts, and shall devolve in the same manner as the chattels sold.

(3) A sale or purchase of chattels under this section shall not be made without an order of the court.

(4) Any reference in any enactment to personal chattels settled as heirlooms shall extend to any chattels to which this section applies.

Dealings as between tenants for life and the estate.

Provision enabling dealings with tenant for life.

68.—(1) In the manner mentioned and subject to the provisions contained in this section—

(*a*) a sale, grant, lease, mortgage, charge or other disposition of settled land, or of any easement, right, or privilege over the same may be made to the tenant for life; or

(*b*) capital money may be advanced on mortgage to him; or

(*c*) a purchase may be made from him of land to be made subject to the limitations of the settlement; or

(*d*) an exchange may be made with him of settled land for other land; and

(*e*) any such disposition, advance, purchase, or exchange as aforesaid may be made to, from, or with any persons of whom the tenant for life is one.

(2) In every such case the trustees of the settlement shall, in addition to their powers as trustees, have all the powers of a tenant for life in reference to negotiating and completing the transaction, and shall have power to enforce any covenants by the tenant for life, or, where the tenant for life is himself one of the trustees, then the other or others of them shall have such power, and the said powers of a tenant for life may be exercised by the trustees of the settlement in the name and on behalf of the tenant for life.

(3) This section applies, notwithstanding that the tenant for life is one of the trustees of the settlement, or that an order has been made authorising the trustees to act on his behalf, or that he is a lunatic, or a defective, but does not apply to dealings with any body of persons which includes a trustee of the settlement, not being the tenant for life, unless the transaction is either previously or subsequently approved by the court.

Incumbrances.

Shifting of incumbrances.

69. Where there is an incumbrance affecting any part of the settled land (whether capable of being overreached on the exercise by the tenant for life of his powers under this Act or not), the tenant for life, with the consent of the incumbrancer, may charge that incumbrance on any other part of the settled land, or on all or any part of the capital money or securities representing capital money subject or to become subject to the settlement, whether already charged therewith or not, in exoneration of the first mentioned part, and, by a legal mortgage, or otherwise, make provision accordingly.

Power to vary provisions of an incumbrance and to charge by way of additional security.

70.—(1) Where an incumbrance affects any part of the settled land, the tenant for life may, with the consent of the incumbrancer, vary the rate of interest charged and any of the other provisions of the instrument, if any, creating the incumbrance, and with the like consent charge that incumbrance on any part of the settled land, whether already charged therewith or not, or on all or any part of the capital money or securities representing capital money subject or to become subject to the settlement, by way of additional security, or of consolidation of securities, and by a legal mortgage or otherwise, make provision accordingly.

(2) "Incumbrance" in this section includes any annual sum payable during a life or lives or during a term of years absolute or determinable, but in any such case an additional security shall be effected so as only to create a charge or security similar to the original charge or security.

Raising of Money.

Power to raise money by mortgage.

71.—(1) Where money is required for any of the following purposes namely:—

(i) Discharging an incumbrance on the settled land or part thereof;

(ii) Paying for any improvement authorised by this Act or by the settlement;

(iii) Equality of exchange;

(iv) Extinguishing any manorial incidents;

(v) Compensating the steward on the extinguishment of manorial incidents and discharging the expenses incurred in connexion with the extinguishment;

(vi) Redeeming a compensation rentcharge in respect of the extinguishment of manorial incidents and affecting the settled land;

(vii) Commuting any additional rent made payable on the conversion of a perpetually renewable leasehold interest into a long term;

(viii) Satisfying any claims for compensation on the conversion of a perpetually renewable leasehold interest into a long term by any officer, solicitor, or other agent of the lessor in respect of fees or remuneration which would have been payable by the lessee or under-lessee on any renewal;

(ix) Payment of the costs of any transaction authorised by this section or either of the two last preceding sections;

the tenant for life may raise the money so required, on the security of the settled land, or of any part thereof, by a legal mortgage, and the money so raised shall be capital money for that purpose, and may be paid or applied accordingly.

(2) "Incumbrance" in this section does not include any annual sum payable only during a life or lives or during a term of years absolute or determinable.

(3) The restrictions imposed by this Part of this Act on the leasing powers of a tenant for life do not apply in relation to a mortgage term created under this Act.

Conveyance.

Completion of transactions by conveyance.

72.—(1) On a sale, exchange, lease, mortgage, charge, or other disposition, the tenant for life may, as regards land sold, given in exchange, leased, mortgaged, charged, or otherwise disposed of, or intended so to be, or as regards easements or other rights or privileges sold, given in exchange, leased, mortgaged, or otherwise disposed of, or intended so to be, effect the transaction by deed to the extent of the estate or interest vested or declared to be vested in him by the last or only vesting instrument affecting the settled land or any less estate or interest, in the manner requisite for giving effect to the sale, exchange, lease, mortgage, charge, or other disposition, but so that a mortgage shall be effected by the creation of a term of years absolute in the settled land or by charge by way of legal mortgage, and not otherwise.

(2) Such a deed, to the extent and in the manner to and in which it is expressed or intended to operate and can operate under this Act, is effectual to pass the land conveyed, or the easements, rights, privileges or other interests created, discharged from all the limitations, powers, and provisions of the settlement, and from all estates, interests, and charges subsisting or to arise thereunder, but subject to and with the exception of—

(i) all legal estates and charges by way of legal mortgage having priority to the settlement; and

(ii) all legal estates and charges by way of legal mortgage which have been conveyed or created

for securing money actually raised at the date of the deed; and

(iii) all leases and grants at fee-farm rents or otherwise, and all grants of easements, rights of common, or other rights or privileges which—

(*a*) were before the date of the deed granted or made for value in money or money's worth, or agreed so to be, by the tenant for life or statutory owner, or by any of his predecessors in title, or any trustees for them, under the settlement, or under any statutory power, or are at that date otherwise binding on the successors in title of the tenant for life or statutory owner; and

(*b*) are at the date of the deed protected by registration under the Land Charges Act, 1925, if capable of registration thereunder.

(3) Notwithstanding registration under the Land Charges Act, 1925, of—

(*a*) an annuity within the meaning of Part II. of that Act;

(*b*) a limited owner's charge or a general equitable charge within the meaning of that Act;

a disposition under this Act operates to overreach such annuity or charge which shall, according to its priority, take effect as if limited by the settlement.

(4) Where a lease is by this Act authorised to be made by writing under hand only, such writing shall have the same operation under this section as if it had been a deed.

PART III.

INVESTMENT OR OTHER APPLICATION OF CAPITAL MONEY.

Modes of investment or application.

73.—(1) Capital money arising under this Act, subject to payment of claims properly payable thereout and to the application thereof for any special authorised object for which the capital money was raised, shall, when received, be invested or otherwise applied wholly in one, or partly in one and partly in another or others, of the following modes (namely):—

(i) In investment in Government securities, or in other securities in which the trustees of the settlement are by the settlement or by law

authorised to invest trust money of the settlement, with power to vary the investment into or for any other such securities;

(ii) In discharge, purchase, or redemption of incumbrances affecting the whole estate the subject of the settlement, or of land-tax, rentcharge in lieu of tithe, Crown rent, chief rent, or quit rent, charged on or payable out of the settled land, or of any charge in respect of an improvement created on a holding under the Agricultural Holdings Act, 1923, or any similar previous enactment; 13 & 14 Geo. 5. c. 9.

(iii) In payment for any improvement authorised by this Act;

(iv) In payment as for an improvement authorised by this Act of any money expended and costs incurred by a landlord under or in pursuance of the Agricultural Holdings Act, 1923, or any similar previous enactment, or under custom or agreement or otherwise, in or about the execution of any improvement comprised in Part I. or Part II. of the First Schedule to the said Agricultural Holdings Act;

(v) In payment for equality of exchange of settled land;

(vi) In discharge of any fines payable in respect of the alienation of any settled land affected by manorial incidents;

(vii) In payment of the gross sum or an instalment thereof attributable to capital payable as compensation for the extinguishment of manorial incidents affecting the settled land, and for the acquisition of any mines, minerals, and other rights of the lord, or the owner of the land affected by the manorial incidents, and for the compensation of the steward;

(viii) In redemption of any compensation rentcharge created in respect of the extinguishment of manorial incidents, and affecting the settled land;

(ix) In commuting any additional rent made payable on the conversion of a perpetually renewable leasehold interest into a long term, and in satisfying any claim for compensation on such conversion by any officer, solicitor, or other

agent of the lessor in respect of fees or remuneration which would have been payable by the lessee or under-lessee on any renewal;

(x) In purchase of the freehold reversion in fee of any part of the settled land, being leasehold land held for years;

(xi) In purchase of land in fee simple, or of leasehold land held for sixty years or more unexpired at the time of purchase, subject or not to any exception or reservation of or in respect of mines or minerals therein, or of or in respect of rights or powers relative to the working of mines or minerals therein, or in other land;

(xii) In purchase either in fee simple, or for a term of sixty years or more, of mines and minerals convenient to be held or worked with the settled land, or of any easement, right, or privilege convenient to be held with the settled land for mining or other purposes;

(xiii) In redemption of an improvement rentcharge, that is to say, a rentcharge (temporary or permanent) created, whether before or after the commencement of this Act, in pursuance of any Act of Parliament, with the object of paying off any money advanced for defraying the expenses of an improvement of any kind authorised by Part I. of the Third Schedule to this Act;

(xiv) In the purchase, with the leave of the court, of any leasehold interest where the immediate reversion is settled land, so as to merge the leasehold interest (unless the court otherwise directs) in the reversion, and notwithstanding that the leasehold interest may have less than sixty years to run;

(xv) In payment of the costs and expenses of all plans, surveys, and schemes, including schemes under the Town Planning Act, 1925, or any similar previous enactment, made with a view to, or in connexion with the improvement or development of the settled land, or any part thereof, or the exercise of any statutory powers, and of all negotiations entered into by the tenant for life with a view to the exercise of any of the said powers, notwithstanding that such negotiations may prove abortive, and in pay-

15 Geo. 5. c. 16.

ment of the costs and expenses of opposing any such proposed scheme as aforesaid affecting the settled land, whether or not the scheme is made;

(xvi) In the purchase of an annuity charged under section four of the Tithe Act, 1918, on the settled land or any part thereof, or in the discharge of such part of any such annuity as does not represent interest; 8 & 9 Geo. 5. c. 54.

(xvii) In payment to a local or other authority of such sum as may be agreed in consideration of such authority taking over and becoming liable to repair a private road on the settled land or a road for the maintenance whereof a tenant for life is liable ratione tenuræ;

(xviii) In financing any person who may have agreed to take a lease or grant for building purposes of the settled land, or any part thereof, by making advances to him in the usual manner on the security of an equitable mortgage of his building agreement;

(xix) In payment to any person becoming absolutely entitled or empowered to give an absolute discharge;

(xx) In payment of costs, charges, and expenses of or incidental to the exercise of any of the powers, or the execution of any of the provisions of this Act including the costs and expenses incidental to any of the matters referred to in this section;

(xxi) In any other mode authorised by the settlement with respect to money produced by the sale of the settled land.

(2) Notwithstanding anything in this section capital money arising under this Act from settled land in England or Wales shall not be applied in the purchase of land out of England and Wales, unless the settlement expressly authorises the same.

Power to acquire land subject to certain incumbrances.

74.—(1) Land may be acquired on a purchase or exchange to be made subject to a settlement, notwithstanding that the land is subject to any Crown rent, quit rent, chief rent, or other incident of tenure, or to any easement, right or privilege, or to any restrictive covenant, or to any liability to maintain or repair walls, fences,

sea-walls, river banks, dykes, roads, streets, sewers, or drains, or to any improvement rentcharge which is capable under this Act of being redeemed out of capital money.

(2) The acquisition on a purchase or exchange before the commencement of this Act of any land subject to any such burden as aforesaid is hereby confirmed.

Regulations respecting investment, devolution, and income of securities, &c.

75.—(1) Capital money arising under this Act shall, in order to its being invested or applied as aforesaid, be paid either to the trustees of the settlement or into court at the option of the tenant for life, and shall be invested or applied by the trustees, or under the direction of the court, as the case may be, accordingly.

(2) The investment or other application by the trustees shall be made according to the direction of the tenant for life, and in default thereof according to the discretion of the trustees, but in the last-mentioned case subject to any consent required or direction given by the settlement with respect to the investment or other application by the trustees of trust money of the settlement, and any investment shall be in the names or under the control of the trustees.

(3) The investment or other application under the direction of the court shall be made on the application of the tenant for life, or of the trustees.

(4) Any investment or other application shall not during the subsistence of the beneficial interest of the tenant for life be altered without his consent.

(5) Capital money arising under this Act while remaining uninvested or unapplied, and securities on which an investment of any such capital money is made shall for all purposes of disposition, transmission and devolution be treated as land, and shall be held for and go to the same persons successively, in the same manner and for and on the same estates, interests, and trusts, as the land wherefrom the money arises would, if not disposed of, have been held and have gone under the settlement.

(6) The income of those securities shall be paid or applied as the income of that land, if not disposed of, would have been payable or applicable under the settlement.

(7) Those securities may be converted into money, which shall be capital money arising under this Act.

(8) All or any part of any capital money paid into court may, if the court thinks fit, be at any time paid out to the trustees of the settlement.

Application of money in court under Lands Clauses and other Acts.

76. Where, under an Act, or an order or scheme confirmed by or having the force of an Act of Parliament, incorporating or applying, wholly or in part, the Lands Clauses Acts, or under any Act, public general or local or private, money is at the commencement of this Act in court, or is afterwards paid into court, and is liable to be laid out in the purchase of land to be made subject to a settlement, then, in addition to any mode of dealing therewith authorised by the Act under which the money is in court, that money may be invested or applied as capital money arising under this Act, on the like terms, if any, respecting costs and other things, as nearly as circumstances admit, and notwithstanding anything in this Act according to the same procedure, as if the modes of investment or application authorised by this Act were authorised by the Act under which the money is in court.

Application of money in hands of trustees under powers of settlement.

77. Where—

(*a*) under any instrument coming into operation either before or after the commencement of this Act money is in the hands of trustees, and is liable to be laid out in the purchase of land to be made subject to the trusts declared by that instrument; or

(*b*) under any instrument coming into operation after the commencement of this Act money or securities or the proceeds of sale of any property is or are held by trustees on trusts creating entailed interests therein;

then, in addition to such powers of dealing therewith as the trustees have independently of this Act, they may, at the option of the tenant for life, invest or apply the money securities or proceeds as if they were capital money arising under this Act.

Provision as to personal estate settled by reference to capital money, or

78.—(1) Where money or securities or the proceeds of sale of any property is or are by any instrument coming into operation either before or after the commencement of this Act directed to be held on trusts declared by reference to capital money arising under

on trusts corresponding with the limitations of land.

this Act from land settled by that instrument or any other instrument, the money securities or proceeds shall be held on the like trusts as if the same had been or represented money which had actually arisen under this Act from the settled land.

(2) Where money or securities or the proceeds of sale of any property is or are by any instrument coming into operation after the commencement of this Act directed to be held on the same trusts as, or on trusts corresponding as nearly as may be with the limitations of land settled by that instrument or any other instrument, the money, securities or proceeds shall be held on the like trusts as if the same had been or represented capital money arising under this Act from the settled land.

(3) Such money, securities, or proceeds of sale shall be paid or transferred to or retained by the trustees of the settlement of the settled land, or paid or transferred into court, and invested or applied accordingly.

(4) Where the settled land includes freehold land, the money, securities, or proceeds of sale aforesaid shall be held on the like trusts as if the same had been or represented capital money arising from the freehold land.

(5) This section has effect notwithstanding any direction in the instrument creating the trust that the trust property is not to vest absolutely in any tenant in tail or in tail male or in tail female under the limitations of the settled land who dies under a specified age, or before the happening of a specified event, but, save as aforesaid, has effect with any variations and subject to any contrary intention expressed in the instrument creating the trust.

Application of money paid for lease or reversion.

79. Where capital money arising under this Act is purchase-money paid in respect of—

(*a*) a lease for years; or

(*b*) any other estate or interest in land less than the fee simple; or

(*c*) a reversion dependent on any such lease, estate, or interest;

the trustees of the settlement or the court, as the case may be, and in the case of the court on the application

of any party interested in that money, may, notwithstanding anything in this Act, require and cause the same to be laid out, invested, accumulated, and paid in such manner as, in the judgment of the trustees or of the court, as the case may be, will give to the parties interested in that money the like benefit therefrom as they might lawfully have had from the lease, estate, interest, or reversion in respect whereof the money was paid, or as near thereto as may be.

As to money received by way of damages for breach of covenant.

80.—(1) Money, not being rent, received by way of damages or compensation for breach of any covenant by a lessee or grantee contained in any lease or grant of settled land shall, unless in any case the court on the application of the tenant for life or the trustees of the settlement otherwise directs, be deemed to be capital money arising under this Act, and shall be paid to or retained by the trustees of the settlement, or paid into court, and invested or applied, accordingly.

(2) In addition to the other modes in which capital money may be applied under this Act or the settlement, money so received as aforesaid or any part thereof may, if the circumstances permit, be applied at any time within twelve months after such receipt, or such extended period as the court may allow, in or towards payment of the costs of making good in whole or in part the breach of covenant in respect of which it was so received, or the consequences thereof, and the trustees of the settlement, if they think fit, may require any money so received or any part thereof to be so applied.

(3) In the application of any such money in or towards payment of the cost of making good any such breach or the consequences of any such breach as aforesaid, the work required to be done for the purpose shall be deemed to be an improvement authorised by Part I. of the Third Schedule to this Act.

(4) This section does not apply to money received by way of damages or compensation for the breach of a covenant to repay to the lessor or grantor money laid out or expended by him, or to any case in which if the money received were applied in making good the breach of covenant or the consequences thereof such application would not enure for the benefit of the settled land, or any buildings thereon.

(5) This section does not apply to money received by way of damages or compensation before the commencement of this Act, but it applies whether the lease or grant was made before or after the commencement of this Act, and whether under the powers conferred by the Settled Land Acts, 1882 to 1890, or this Act or not.

(6) The provisions of this section apply only if and as far as a contrary intention is not expressed in the settlement, and have effect subject to the terms of the settlement, and to any provisions therein contained, but a contrary intention shall not be deemed to be expressed merely by words negativing impeachment for waste.

As to capital arising otherwise than under the Act.

81. Any money which after the commencement of this Act arises from settled land otherwise than under this Act, as well as any money or securities in the names or under the control of the tenant for life or the trustees of the settlement, being or representing money which had arisen before the commencement of this Act from the settled land otherwise than under the Settled Land Acts, 1882 to 1890, and which ought, as between the persons interested in the settled land, to be or to have been treated as capital, shall (without prejudice to any other statutory provisions affecting the same) be deemed to be or to represent capital money arising under this Act, and shall be paid or transferred to or retained by the trustees of the settlement, or paid or transferred into court, and invested or applied, accordingly.

Land acquired may be made a substituted security for released charges.

82.—(1) Land acquired by purchase or in exchange or otherwise under the powers of this Act, may be made a substituted security for any charge from which the settled land or any part thereof has theretofore been released on the occasion and in order to the completion of a sale, exchange or other disposition :

Provided that, where a charge does not affect the whole of the settled land, the land acquired shall not be subjected thereto, unless the land is acquired either by purchase with money arising from sale of land which was before the sale subject to the charge, or by an exchange of land which was before the exchange subject to the charge.

(2) On land being so acquired, any person who, by the direction of the tenant for life, so conveys the land as to subject it to any legal estate or charge by way of

legal mortgage, is not concerned to inquire whether or not it is proper that the land should be subjected to such legal estate or charge.

Part IV.

Improvements.

Improvements with Capital Money.

Description of improvements authorised by Act.

83. Improvements authorised by this Act are the making or execution on, or in connexion with, and for the benefit of settled land, of any of the works mentioned in the Third Schedule to this Act, or of any works for any of the purposes mentioned in that Schedule, and any operation incident to or necessary or proper in the execution of any of those works, or necessary or proper for carrying into effect any of those purposes, or for securing the full benefit of any of those works or purposes.

Mode of application of capital money.

84.—(1) Capital money arising under this Act may be applied in or towards payment for any improvement authorised by this Act or by the settlement, without any scheme for the execution of the improvement being first submitted for approval to, or approved by, the trustees of the settlement or the court.

(2) Where the capital money to be expended is in the hands of the trustees of the settlement, they may apply that money in or towards payment for the whole or any part of any work or operation comprised in the improvement, on—

(i) a certificate to be furnished by a competent engineer or able practical surveyor employed independently of the tenant for life, certifying that the work or operation comprised in the improvement or some specific part thereof, has been properly executed, and what amount is properly payable in respect thereof, which certificate shall be conclusive in favour of the trustees as an authority and discharge for any payment made by them in pursuance thereof; or

(ii) an order of the court directing or authorising the trustees so to apply a specified portion of the capital money:

Provided that—

(*a*) In the case of improvements not authorised by Part I. of the Third Schedule to this Act or by the settlement, the trustees may, if they think fit, and shall if so directed by the court, before they make any such application of capital money require that that money, or any part thereof, shall be repaid to them out of the income of the settled land by not more than fifty half-yearly instalments, the first of such instalments to be paid or to be deemed to have become payable at the expiration of six months from the date when the work or operation, in payment for which the money is to be applied, was completed;

(*b*) No capital money shall be applied by the trustees in payment for improvements not authorised by Parts I. and II. of the Third Schedule to this Act, or by the settlement, except subject to provision for the repayment thereof being made in manner mentioned in the preceding paragraph of this proviso.

(3) Where the capital money to be expended is in court, the court may, if it thinks fit, on a report or certificate of the Minister, or of a competent engineer or able practical surveyor approved by the court, or on such other evidence as the court may think sufficient, make such order and give such directions as it thinks fit for the application of the money, or any part thereof, in or towards payment for the whole or any part of any work or operation comprised in the improvement.

(4) Where the court authorises capital money to be applied in payment for any improvement or intended improvement not authorised by Part I. of the Third Schedule to this Act or by the settlement, the court, as a condition of making the order, may in any case require that the capital money or any part thereof, and shall as respects an improvement mentioned in Part III. of that Schedule (unless the improvement is authorised by the settlement), require that the whole of the capital money shall be repaid to the trustees of the settlement out of the income of the settled land by a fixed number of periodical instalments to be paid at the times appointed by the court, and may require that any

incumbrancer of the estate or interest of the tenant for life shall be served with notice of the proceedings.

(5) All money received by the trustees of the settlement in respect of any instalments under this section shall be held by them as capital money arising from freehold land under the settlement, unless the court otherwise directs.

Creation of rentcharges to discharge instalments.

85.—(1) When the tenant for life is required by the trustees to repay by instalments the capital money expended, or any part thereof, the tenant for life is by this section authorised to create out of the settled land, or any part thereof, a yearly rentcharge in favour of the trustees of the settlement sufficient in amount to discharge the said half-yearly instalments.

(2) Where an order is made requiring repayment by instalments, the settled land shall stand charged with the payment to the trustees of the settlement of a yearly rentcharge sufficient in amount to discharge the periodical instalments, and the rentcharge shall accrue from day to day, and be payable at the times appointed for payment of the periodical instalments, and shall have effect as if limited by the settlement prior to the estate of the tenant for life, and the trustees of the settlement shall have all statutory and other powers for recovery thereof.

(3) A rentcharge created by or under this section shall not be redeemed out of capital money, but may be overreached in like manner as if the same were limited by the settlement, and shall cease if and when the land affected by the improvement ceases to be settled or is sold or exchanged, but if part of the land so affected remains subject to the settlement the rentcharge shall remain in force in regard to the settled land.

Sundry Provisions as to Improvements.

Concurrence in improvements.

86. The tenant for life may join or concur with any other person interested in executing any improvement authorised by this Act, or in contributing to the cost thereof.

Court may order payment for improvements executed.

87. The court may, in any case where it appears proper, make an order directing or authorising capital money to be applied in or towards payment for any improvement authorised by the Settled Land Acts,

1882 to 1890, or this Act, notwithstanding that a scheme was not, before the execution of the improvement, submitted for approval, as required by the Settled Land Act, 1882, to the trustees of the settlement or to the court, and notwithstanding that no capital money is immediately available for the purpose.

Obligation on tenant for life and successors to maintain, insure, &c.

88.—(1) The tenant for life, and each of his successors in title having under the trust instrument a limited estate or interest only in the settled land, shall, during such period, if any, as the Minister by certificate in any case prescribes, maintain and repair, at his own expense, every improvement executed under the foregoing provisions of this Act or the enactments replaced thereby, and where a building or work in its nature insurable against damage by fire is comprised in the improvement, shall at his own expense insure and keep insured the improvement in such amount, if any, as the Minister by certificate in any case prescribes.

(2) The tenant for life, or any of his successors as aforesaid, shall not cut down or knowingly permit to be cut down, except in proper thinning, any trees planted as an improvement under the foregoing provisions of this Act, or under the enactments replaced by those provisions.

(3) The tenant for life, and each of his successors as aforesaid, shall from time to time, if required by the Minister on or without the application of any person having under the trust instrument any estate or interest in the settled land in possession, remainder, or otherwise, report to the Minister the state of every improvement executed under this Act, and the fact and particulars of fire insurance, if any.

(4) The Minister may vary any certificate made by him under this section in such manner or to such extent as circumstances appear to him to require, but not so as to increase the liabilities of the tenant for life, or any of his successors as aforesaid.

(5) If the tenant for life, or any of his successors as aforesaid, fails in any respect to comply with the requisitions of this section, or does any act in contravention thereof, any person having, under the trust instrument, any estate or interest in the settled land in possession, remainder, or reversion, shall have a right of action, in

respect of that default or act, against the tenant for life; and the estate of the tenant for life, after his death, shall be liable to make good to the persons entitled under the trust instrument any damages occasioned by that default or act.

(6) Where in connexion with any improvement an improvement rentcharge, as hereinbefore defined, has been created, and that rentcharge has been redeemed out of capital money, this section shall apply to the improvement as if it had been an improvement executed under this Act.

Protection as regards waste in execution and repair of improvements.

89. The tenant for life, and each of his successors in title having, under the trust instrument, a limited estate or interest only in the settled land, and all persons employed by or under contract with the tenant for life or any such successor, may from time to time enter on the settled land, and, without impeachment of waste by any remainderman or reversioner, thereon execute any improvement authorised by this Act, or inspect, maintain, and repair the same, and for the purposes thereof do, make, and use on the settled land, all acts, works, and conveniences proper for the execution, maintenance, repair, and use thereof, and get and work freestone, limestone, clay, sand, and other substances, and make tramways and other ways, and burn and make bricks, tiles, and other things, and cut down and use timber and other trees not planted or left standing for shelter or ornament.

PART V.

MISCELLANEOUS PROVISIONS.

Power for tenant for life to enter into contracts.

90.—(1) A tenant for life—

(i) may contract to make any sale, exchange, mortgage, charge or other disposition authorised by this Act; and

(ii) may vary or rescind, with or without consideration, the contract in the like cases and manner in which, if he were absolute owner of the settled land, he might lawfully vary or rescind the same, but so that the contract as varied be in conformity with this Act; and

(iii) may contract to make any lease, and in making the lease may vary the terms, with or without consideration, but so that the lease be in conformity with this Act; and

(iv) may accept a surrender of a contract for a lease or a grant in fee simple at a rent, in like manner and on the like terms in and on which he might accept a surrender of a lease or a regrant, and thereupon may make a new or other contract for or relative to a lease or leases, or a grant or grants in fee simple at a rent, in like manner and on the like terms in and on which he might make a new or other lease or grant, or new or other leases or grants, where a lease or a grant in fee simple at a rent had been executed; and

(v) may enter into a contract for or relating to the execution of any improvement authorised by this Act, and may vary or rescind any such contract; and

(vi) may, in any other case, enter into a contract to do any act for carrying into effect any of the purposes of this Act, and may vary or rescind any such contract.

(2) Every contract, including a contract arising by reason of the exercise of an option, shall be binding on and shall enure for the benefit of the settled land, and shall be enforceable against and by every successor in title for the time being of the tenant for life, or statutory owner, and may be carried into effect by any such successor, but so that it may be varied or rescinded by any such successor, in the like case and manner, if any, as if it had been made by himself.

(3) The court may, on the application of the tenant for life, or statutory owner, or of any such successor as aforesaid, or of any person interested in any contract, give directions respecting the enforcing, carrying into effect, varying, or rescinding thereof.

(4) A preliminary contract under this Act for or relating to a lease, and a contract conferring an option, shall not form part of the title or evidence of the title of any person to the lease, or to the benefit thereof, or to the land the subject of the option.

(5) All money, not being rent, received on the exercise by the tenant for life or statutory owner of the powers conferred by subsection (1) of this section, shall, unless the court on an application made within six months after the receipt of the money, or within such further time as the court may in special circumstances allow, otherwise directs, be capital money arising under this Act.

Provisions as to different estates settled upon the same limitations.

91.—(1) Where estates are settled by different settlements upon the same limitations, whether by reference or otherwise, the following provisions shall have effect:—

(i) The estates or any two or more of them, as the case may require, may be treated as one aggregate estate, in which case the aggregate estate shall be the settled land for all the purposes of this Act;

(ii) Where the trustees for the purposes of this Act of the two or several settlements are the same persons they shall be the trustees of the settlement of the aggregate estate for all the purposes of this Act, and all or any part of the capital money arising from one of the estates may be applied by the direction of the tenant for life or statutory owner as if the same had arisen from any other of the estates;

(iii) Where the trustees for the purposes of this Act of the settlements or of any two or more of them are not the same persons—

(*a*) any notice required to be given by this Act to the trustees of the settlement and to the solicitor of such trustees shall be given to the trustees of every settlement which comprises any part of the land to which such notice relates and to the solicitor of such trustees;

(*b*) any capital money arising on any sale, exchange, lease, mortgage, charge, or other disposition of land comprised in more than one settlement, shall be apportioned between the trustees of the different settlements in such manner as the tenant for life or statutory owner may think fit;

(*c*) all or any part of the capital money arising from the land comprised in one of the settlements may be paid by the trustees of that settlement, by such direction as aforesaid, to the trustees of any of the other settlements, to be applied by such last-mentioned trustees as if the same had arisen from land comprised in that other settlement:

(iv) For the purposes of this subsection, money liable to be laid out in the purchase of land to be settled upon the same limitations as other land may be applied and dealt with in like manner in all respects as if land had been purchased and settled, and the money were capital money arising therefrom.

(2) Estates shall be deemed to be settled upon the same limitations, notwithstanding that any of them may be subject to incumbrances, charges, or powers of charging to which the other or others of them may not be subject:

Provided that, in any such case as last aforesaid, the powers of this section relating to the payment or application of capital money shall not, unless the settlement under which the capital money is held otherwise provides, be exercisable without an order of the court.

(3) This section has effect without prejudice to any appointment made by the court before the commencement of this Act of trustees of the settlement of an aggregate estate, and to the power of the court in any case after such commencement to make any such appointment, and where any such appointment has been made before such commencement, or is made thereafter, this section has effect as if the trustees so appointed and their successors in office were the trustees for the purposes of this Act of each of the settlements constituting the settlement of the aggregate estate, and there were no other trustees thereof for the purposes of this Act.

(4) In this section "estate" means the land, capital money, and securities representing capital money for the time being subject to a particular settlement.

Proceedings for protection or recovery of land settled or claimed as settled.

92. The court may, if it thinks fit, approve of any action, defence, petition to Parliament, parliamentary opposition, or other proceeding taken or proposed to be taken for the protection of settled land, or of any action or proceeding taken or proposed to be taken for the recovery of land being or alleged to be subject to a settlement, and may direct that any costs, charges, or expenses incurred or to be incurred in relation thereto, or any part thereof, be paid out of property subject to the settlement.

Reference of questions to court.

93. If a question arises or a doubt is entertained—

(*a*) respecting the exercise or intended exercise of any of the powers conferred by this Act, or any enactment replaced by this Act, or the settlement, or any matter relating thereto; or

(*b*) as to the person in whose favour a vesting deed or assent ought to be executed, or as to the contents thereof; or

(*c*) otherwise in relation to property subject to a settlement;

the tenant for life or statutory owner, or the trustees of the settlement, or any other person interested under the settlement, may apply to the court for its decision or directions thereon, or for the sanction of the court to any conditional contract, and the court may make such order or give such directions respecting the matter as the court thinks fit.

PART VI.

GENERAL PROVISIONS AS TO TRUSTEES.

Number of trustees to act.

94.—(1) Notwithstanding anything in this Act, capital money arising under this Act shall not be paid to fewer than two persons as trustees of a settlement, unless the trustee is a trust corporation.

(2) Subject as aforesaid the provisions of this Act referring to the trustees of a settlement apply to the surviving or continuing trustees or trustee of the settlement for the time being.

Trustees' receipts.

95. The receipt or direction in writing of or by the trustees of the settlement, or where a sole trustee is a trust corporation, of or by that trustee, or of or by the personal representatives of the last surviving or con-

tinuing trustee, for or relating to any money or securities, paid or transferred to or by the direction of the trustees, trustee, or representatives, as the case may be, effectually discharges the payer or transferor therefrom, and from being bound to see to the application or being answerable for any loss or misapplication thereof, and, in case of a mortgagee or other person advancing money, from being concerned to see that any money advanced by him is wanted for any purpose of this Act, or that no more than is wanted is raised.

Protection of each trustee individually.

96. Each person who is for the time being a trustee of a settlement is answerable for what he actually receives only, notwithstanding his signing any receipt for conformity, and in respect of his own acts, receipts, and defaults only, and is not answerable in respect of those of any other trustee, or of any banker, broker, or other person, or for the insufficiency or deficiency of any securities, or for any loss not happening through his own wilful default.

Protection of trustees generally.

97. The trustees of a settlement, or any of them—

(*a*) are not liable for giving any consent, or for not making, bringing, taking, or doing any such application, action, proceeding, or thing, as they might make, bring, take, or do; and

(*b*) in case of a purchase of land with capital money arising under this Act, or of an exchange, lease, or other disposition, are not liable for adopting any contract made by the tenant for life or statutory owner, or bound to inquire as to the propriety of the purchase, exchange, lease, or other disposition, or answerable as regards any price, consideration, or fine; and

(*c*) are not liable to see to or answerable for the investigation of the title, or answerable for a conveyance of land, if the conveyance purports to convey the land in the proper mode; and

(*d*) are not liable in respect of purchase-money paid by them by the direction of the tenant for life or statutory owner to any person joining in the conveyance as a conveying

party, or as giving a receipt for the purchase-money, or in any other character, or in respect of any other money paid by them by the direction of the tenant for life or statutory owner on the purchase, exchange, lease, or other disposition.

Protection of trustees in particular cases.

98.—(1) Where the tenant for life or statutory owner directs capital money to be invested on any authorised security or investment, the trustees of the settlement shall not be liable for the acts of any agent employed by the tenant for life or statutory owner in connexion with the transaction, or for not employing a separate agent in or about the valuation of the subject of the security or the investigation of the title thereto, or for the form of the security or of any deed conveying the subject thereof to the trustees.

(2) The trustees of the settlement shall not be liable for paying or applying any capital money by the direction of the tenant for life or statutory owner for any authorised purpose.

(3) The trustees of the settlement shall not be liable in any way on account of any vesting instrument or other documents of title relating to the settled land, other than securities for capital money, being placed in the possession of the tenant for life or statutory owner:

Provided that where, if the settlement were not disclosed, it would appear that the tenant for life had a general power of appointment over, or was absolutely and beneficially entitled to the settled land, the trustees of the settlement shall, before they deliver the documents to him, require that notice of the last or only principal vesting instrument be written on one of the documents under which the tenant for life acquired his title, and may, if the documents are not in their possession, require such notice to be written as aforesaid, but, in the latter case, they shall not be liable in any way for not requiring the notice to be written.

(4) This section applies to dealings and matters effected before as well as after the commencement of this Act.

Indemnities to personal representa-

99. Personal representatives, trustees, or other persons who have in good faith, pursuant to this Act,

tives and others.

executed a vesting deed, assent, or other conveyance of the settled land, or a deed of discharge of trustees, shall be absolutely discharged from all liability in respect of the equitable interests and powers taking effect under the settlement, and shall be entitled to be kept indemnified at the cost of the trust estate from all liabilities affecting the settled land, but the person to whom the settled land is conveyed (not being a purchaser taking free therefrom) shall hold the settled land upon the trusts, if any, affecting the same.

Trustees' reimbursements.

100. The trustees of a settlement may reimburse themselves or pay and discharge out of the trust property all expenses properly incurred by them.

Notice to trustees.

101.—(1) Save as otherwise expressly provided by this Act, a tenant for life or statutory owner, when intending to make a sale, exchange, lease, mortgage, or charge or to grant an option—

(*a*) shall give notice of his intention in that behalf to each of the trustees of the settlement, by posting registered letters, containing the notice, addressed to the trustees severally, each at his usual or last known place of abode in the United Kingdom; and

(*b*) shall give a like notice to the solicitor for the trustees, if any such solicitor is known to the tenant for life or statutory owner, by posting a registered letter, containing the notice, addressed to the solicitor at his place of business in the United Kingdom;

every letter under this section being posted not less than one month before the making or granting by the tenant for life or statutory owner of the sale, exchange, lease, mortgage, charge, or option, or of a contract for the same:

Provided that a notice under this section shall not be valid unless at the date thereof the trustee is a trust corporation, or the number of trustees is not less than two.

(2) The notice required by this section of intention to make a sale, exchange, or lease, or to grant an option, may be notice of a general intention in that behalf.

(3) The tenant for life or statutory owner is, upon request by a trustee of the settlement, to furnish to him such particulars and information as may reasonably be

required by him from time to time with reference to sales, exchanges, or leases effected, or in progress, or immediately intended.

(4) Any trustee, by writing under his hand, may waive notice either in any particular case, or generally, and may accept less than one month's notice.

(5) A person dealing in good faith with the tenant for life is not concerned to inquire respecting the giving of any such notice as is required by this section.

Management of land during minority or pending contingency.

102.—(1) If and as long as any person who is entitled to a beneficial interest in possession affecting land is an infant, the trustees appointed for this purpose by the settlement, or if there are none so appointed, then the trustees of the settlement, unless the settlement or the order of the court whereby they or their predecessors in office were appointed to be such trustees expressly provides to the contrary, or if there are none, then any persons appointed as trustees for this purpose by the court on the application of a guardian or next friend of the infant, may enter into and continue in possession of the land on behalf of the infant, and in every such case the subsequent provisions of this section shall apply.

(2) The trustees shall manage or superintend the management of the land, with full power—

(*a*) to fell timber or cut underwood from time to time in the usual course for sale, or for repairs or otherwise; and

(*b*) to erect, pull down, rebuild, and repair houses, and other buildings and erections; and

(*c*) to continue the working of mines, minerals, and quarries which have usually been worked; and

(*d*) to drain or otherwise improve the land or any part thereof; and

(*e*) to insure against loss by fire; and

(*f*) to make allowances to and arrangements with tenants and others; and

(*g*) to determine tenancies, and to accept surrenders of leases and tenancies; and

(*h*) generally to deal with the land in a proper and due course of management;

but so that, where the infant is impeachable for waste, the trustees shall not commit waste, and shall cut timber on the same terms only, and subject to the same restrictions, on and subject to which the infant could, if of full age, cut the same.

(3) The trustees may from time to time, out of the income of the land, including the produce of the sale of timber and underwood, pay the expenses incurred in the management, or in the exercise of any power conferred by this section, or otherwise in relation to the land, and all outgoings not payable by any tenant or other person, and shall keep down any annual sum, and the interest of any principal sum, charged on the land.

(4) This section has effect subject to an express appointment by the settlement, or the court, of trustees for the purposes of this section or of any enactment replaced by this section.

(5) Where any person is contingently entitled to land, this section shall, subject to any prior interests or charges affecting that land, apply until his interest vests, or, if his interest vests during his minority, until he attains the age of twenty-one years.

This subsection applies only where a person becomes contingently entitled under an instrument coming into operation after the commencement of this Act.

(6) This section applies only if and as far as a contrary intention is not expressed in the instrument, if any, under which the interest of the infant or person contingently entitled as aforesaid arises, and has effect subject to the terms of that instrument and to the provisions therein contained.

PART VII.

RESTRICTIONS, SAVINGS, AND PROTECTION OF PURCHASERS.

Legal estate in settled land not to vest in trustee in bankruptcy of estate owner.

103. The legal estate in settled land shall not vest in the trustee in bankruptcy of an estate owner unless and until the estate owner becomes absolutely and beneficially entitled to the settled land free from all limitations, powers, and charges taking effect under the settlement.

104.—(1) The powers under this Act of a tenant for life are not capable of assignment or release, and do not pass to a person as being, by operation of law or otherwise, an assignee of a tenant for life, and remain exercisable by the tenant for life after and notwithstanding any assignment, by operation of law or otherwise, of his estate or interest under the settlement. Powers not assignable, and contract not to exercise powers void.

This subsection applies notwithstanding that the estate or interest of the tenant for life under the settlement was not in possession when the assignment was made or took effect by operation of law.

(2) A contract by a tenant for life not to exercise his powers under this Act or any of them shall be void.

(3) Where an assignment for value of the estate or interest of the tenant for life was made before the commencement of this Act, this section shall operate without prejudice to the rights of the assignee, and in that case the assignee's rights shall not be affected without his consent, except that—

(*a*) unless the assignee is actually in possession of the settled land or the part thereof affected, his consent shall not be requisite for the making of leases thereof by the tenant for life or statutory owner, provided the leases are made at the best rent that can reasonably be obtained, without fine, and in other respects are in conformity with this Act; and

(*b*) the consent of the assignee shall not be required to an investment of capital money for the time being affected by the assignment in securities authorised by statute for the investment of trust money.

(4) Where such an assignment for value is made or comes into operation after the commencement of this Act, the consent of the assignee shall not be requisite for the exercise by the tenant for life of any of the powers conferred by this Act:

Provided that—

(*a*) the assignee shall be entitled to the same or the like estate or interest in or charge on the land, money, or securities for the time being representing the land, money, or securities comprised in the assignment, as he had by

virtue of the assignment in the last-mentioned land, money, or securities; and

(*b*) if the assignment so provides, or if it takes effect by operation of the law of bankruptcy, and after notice thereof to the trustees of the settlement, no investment or application of capital money for the time being affected by the assignment shall be made without the consent of the assignee, except an investment in securities authorised by statute for the investment of trust money; and

(*c*) notice of the intended transaction shall, unless the assignment otherwise provides, be given to the assignee, but a purchaser shall not be concerned to see or inquire whether such notice has been given.

(5) Where such an assignment for value was made before the commencement of this Act, then on the exercise by the tenant for life after such commencement of any of the powers conferred by this Act—

(*a*) a purchaser shall not be concerned to see or inquire whether the consent of the assignee has been obtained; and

(*b*) the provisions of paragraph (*a*) of the last subsection shall apply for the benefit of the assignee.

(6) A trustee or personal representative who is an assignee for value shall have power to consent to the exercise by the tenant for life of his powers under this Act, or to any such investment or application of capital money as aforesaid, and to bind by such consent all persons interested in the trust estate, or the estate of the testator or intestate.

(7) If by the original assignment, or by any subsequent disposition, the estate or interest assigned or created by the original assignment, or any part thereof, or any derivative interest is settled on persons in succession, whether subject to any prior charge or not, and there is no trustee or personal representative in whom the entirety of the estate or interest so settled is vested, then the person for the time being entitled in possession under the limitations of that settlement,

whether as trustee or beneficiary, or who would, if of full age, be so entitled, and notwithstanding any charge or incumbrance subsisting or to arise under such settlement, shall have power to consent to the exercise by the tenant for life of his powers under this Act, or to any such investment or application of capital money as aforesaid, and to bind by such consent all persons interested or to become interested under such settlement.

(8) Where an assignee for value, or any person who has power to consent as aforesaid under this section, is an infant, the consent may be given on his behalf by his parents or parent or testamentary or other guardian in the order named.

(9) The court shall have power to authorise any person interested under any assignment to consent to the exercise by the tenant for life of his powers under this Act, or to any such investment or application of capital money as aforesaid, on behalf of himself and all other persons interested, or who may become interested under such assignment.

(10) An assignment by operation of the law of bankruptcy, where the assignment comes into operation after the commencement of this Act, shall be deemed to be an assignment for value for the purposes of this section.

(11) An instrument whereby a tenant for life, in consideration of marriage or as part or by way of any family arrangement, not being a security for payment of money advanced, makes an assignment of or creates a charge upon his estate or interest under the settlement is to be deemed one of the instruments creating the settlement, and not an assignment for value for the purposes of this section:

Provided that this subsection shall not have effect with respect to any disposition made before the eighteenth day of August, eighteen hundred and ninety, if inconsistent with the nature or terms of the disposition.

(12) This section extends to assignments made or coming into operation before or after the commencement of this Act, and in this section "assignment" includes assignment by way of mortgage, and any partial or qualified assignment, and any charge or incumbrance,

" assignee " has a corresponding meaning, and " assignee for value " includes persons deriving title under the original assignee.

Effect of surrender of life estate to the next remainderman.

105.—(1) Where the estate or interest of a tenant for life under the settlement has been or is absolutely assured with intent to extinguish the same, either before or after the commencement of this Act, to the person next entitled in remainder or reversion under the settlement, then, if and when such remainderman or reversioner would, if the tenant for life were dead, be or have the powers of a tenant for life under this Act, the statutory powers of the tenant for life under this Act shall, in reference to the property affected by the assurance, and notwithstanding the provisions of the last preceding section, cease to be exercisable by him, and the statutory powers shall thenceforth become exercisable as if he were dead, but without prejudice to any incumbrance affecting the estate or interest assured, and to the rights to which any incumbrancer would have been entitled if those powers had remained exercisable by the tenant for life.

This subsection applies whether or not any term of years or charge intervenes, or the estate of the remainderman or reversioner is liable to be defeated, and whether or not the estate or interest of the tenant for life under the settlement was in possession at the date of the assurance.

This subsection does not prejudice anything done by the tenant for life before the commencement of this Act, in exercise of any power operating under the Settled Land Acts, 1882 to 1890, or, unless the assurance provides to the contrary, operate to accelerate any such intervening term of years or charge as aforesaid.

(2) In this section " assurance " means any surrender, conveyance, assignment or appointment under a power (whether vested in any person solely, or jointly in two or more persons) which operates in equity to extinguish the estate or interest of the tenant for life, and " assured " has a corresponding meaning.

Prohibition or limitation against

106.—(1) If in a settlement, will, assurance, or other instrument executed or made before or after,

or partly before and partly after, the commencement of this Act a provision is inserted— exercise of powers void, and provision against forfeiture.

(*a*) purporting or attempting, by way of direction, declaration, or otherwise, to forbid a tenant for life or statutory owner to exercise any power under this Act, or his right to require the settled land to be vested in him; or

(*b*) attempting, or tending, or intended, by a limitation, gift, or disposition over of settled land, or by a limitation, gift, or disposition of other real or any personal property, or by the imposition of any condition, or by forfeiture, or in any other manner whatever, to prohibit or prevent him from exercising, or to induce him to abstain from exercising, or to put him into a position inconsistent with his exercising, any power under this Act, or his right to require the settled land to be vested in him;

that provision, as far as it purports, or attempts, or tends, or is intended to have, or would or might have, the operation aforesaid, shall be deemed to be void.

(2) For the purposes of this section an estate or interest limited to continue so long only as a person abstains from exercising any such power or right as aforesaid shall be and take effect as an estate or interest to continue for the period for which it would continue if that person were to abstain from exercising the power or right, discharged from liability to determination or cesser by or on his exercising the same.

(3) Notwithstanding anything in a settlement, the exercise by the tenant for life or statutory owner of any power under this Act shall not occasion a forfeiture.

107.—(1) A tenant for life or statutory owner shall, in exercising any power under this Act, have regard to the interests of all parties entitled under the settlement, and shall, in relation to the exercise thereof by him, be deemed to be in the position and to have the duties and liabilities of a trustee for those parties. Tenant for life trustee for all parties interested.

(2) The provision by a tenant for life or statutory owner, at his own expense, of dwellings available for the working classes on any settled land shall not be deemed to be an injury to any interest in reversion or

remainder in that land, but such provision shall not be made by a tenant for life or statutory owner without the previous approval in writing of the trustees of the settlement.

Saving for and exercise of other powers.

108.—(1) Nothing in this Act shall take away, abridge, or prejudicially affect any power for the time being subsisting under a settlement, or by statute or otherwise, exercisable by a tenant for life, or (save as hereinafter provided) by trustees with his consent, or on his request, or by his direction, or otherwise, and the powers given by this Act are cumulative.

(2) In case of conflict between the provisions of a settlement and the provisions of this Act, relative to any matter in respect whereof the tenant for life or statutory owner exercises or contracts or intends to exercise any power under this Act, the provisions of this Act shall prevail; and, notwithstanding anything in the settlement, any power (not being merely a power of revocation or appointment) relating to the settled land thereby conferred on the trustees of the settlement or other persons exercisable for any purpose, whether or not provided for in this Act, shall, after the commencement of this Act, be exercisable by the tenant for life or statutory owner as if it were an additional power conferred on the tenant for life within the next following section of this Act and not otherwise.

(3) If a question arises or a doubt is entertained respecting any matter within this section, the tenant for life or statutory owner, or the trustees of the settlement, or any other person interested, under the settlement may apply to the court for its decision thereon, and the court may make such order respecting the matter as the court thinks fit.

Saving for additional or larger powers under settlement.

109.—(1) Nothing in this Act precludes a settlor from conferring on the tenant for life, or (save as provided by the last preceding section) on the trustees of the settlement, any powers additional to or larger than those conferred by this Act.

(2) Any additional or larger powers so conferred shall, as far as may be, notwithstanding anything in this Act, operate and be exercisable in the like manner, and with all the like incidents, effects, and consequences,

as if they were conferred by this Act, and, if relating to the settled land, as if they were conferred by this Act on a tenant for life.

Protection of purchasers, &c.

110.—(1) On a sale, exchange, lease, mortgage, charge, or other disposition, a purchaser dealing in good faith with a tenant for life or statutory owner shall, as against all parties entitled under the settlement, be conclusively taken to have given the best price, consideration, or rent, as the case may require, that could reasonably be obtained by the tenant for life or statutory owner, and to have complied with all the requisitions of this Act.

(2) A purchaser of a legal estate in settled land shall not, except as hereby expressly provided, be bound or entitled to call for the production of the trust instrument or any information concerning that instrument or any ad valorem stamp duty thereon, and whether or not he has notice of its contents he shall, save as hereinafter provided, be bound and entitled if the last or only principal vesting instrument contains the statements and particulars required by this Act to assume that—

(*a*) the person in whom the land is by the said instrument vested or declared to be vested is the tenant for life or statutory owner and has all the powers of a tenant for life under this Act, including such additional or larger powers, if any, as are therein mentioned;

(*b*) the persons by the said instrument stated to be the trustees of the settlement, or their successors appearing to be duly appointed, are the properly constituted trustees of the settlement;

(*c*) the statements and particulars required by this Act and contained (expressly or by reference) in the said instrument were correct at the date thereof;

(*d*) the statements contained in any deed executed in accordance with this Act declaring who are the trustees of the settlement for the purposes of this Act are correct;

(*e*) the statements contained in any deed of discharge, executed in accordance with this Act, are correct:

Provided that, as regards the first vesting instrument executed for the purpose of giving effect to—

(*a*) a settlement subsisting at the commencement of this Act; or

(*b*) an instrument which by virtue of this Act is deemed to be a settlement; or

(*c*) a settlement which by virtue of this Act is deemed to have been made by any person after the commencement of this Act; or

(*d*) an instrument inter vivos intended to create a settlement of a legal estate in land which is executed after the commencement of this Act and does not comply with the requirements of this Act with respect to the method of effecting such a settlement;

a purchaser shall be concerned to see—

(i) that the land disposed of to him is comprised in such settlement or instrument;

(ii) that the person in whom the settled land is by such vesting instrument vested, or declared to be vested, is the person in whom it ought to be vested as tenant for life or statutory owner;

(iii) that the persons thereby stated to be the trustees of the settlement are the properly constituted trustees of the settlement.

(3) A purchaser of a legal estate in settled land from a personal representative shall be entitled to act on the following assumptions :—

(i) If the capital money, if any, payable in respect of the transaction is paid to the personal representative, that such representative is acting under his statutory or other powers and requires the money for purposes of administration;

(ii) If such capital money is, by the direction of the personal representative, paid to persons who are stated to be the trustees of a settlement, that such persons are the duly constituted trustees of the settlement for the purposes of this Act, and that the personal representative is acting under his statutory powers during a minority;

(iii) In any other case, that the personal representative is acting under his statutory or other powers.

(4) Where no capital money arises under a transaction, a disposition by a tenant for life or statutory owner shall, in favour of a purchaser of a legal estate, have effect under this Act notwithstanding that at the date of the transaction there are no trustees of the settlement.

(5) If a conveyance of or an assent relating to land formerly subject to a vesting instrument does not state who are the trustees of the settlement for the purposes of this Act, a purchaser of a legal estate shall be bound and entitled to act on the assumption that the person in whom the land was thereby vested was entitled to the land free from all limitations, powers, and charges taking effect under that settlement, absolutely and beneficially, or, if so expressed in the conveyance or assent, as personal representative, or trustee for sale or otherwise, and that every statement of fact in such conveyance or assent is correct.

Purchaser of beneficial interest of tenant for life to have remedies of a legal owner.

111. Where—

(*a*) at the commencement of this Act the legal beneficial interest of a tenant for life under a settlement is vested in a purchaser; or

(*b*) after the commencement of this Act a tenant for life conveys or deals with his beneficial interest in possession in favour of a purchaser, and the interest so conveyed or created would, but for the restrictions imposed by statute on the creation of legal estates, have been a legal interest;

the purchaser shall (without prejudice to the powers conferred by this Act on the tenant for life) have and may exercise all the same rights and remedies as he would have had or have been entitled to exercise if the interest had remained or been a legal interest and the reversion, if any, on any leases or tenancies derived out of the settled land had been vested in him:

Provided that, where the conveyance or dealing is effected after the commencement of this Act, the purchaser shall not be entitled to the possession of the

documents of title relating to the settled land, but shall have the same rights with respect thereto as if the tenant for life had given to him a statutory acknowledgment of his right to production and delivery of copies thereof, and a statutory undertaking for the safe custody thereof.

The tenant for life shall not deliver any such documents to a purchaser of his beneficial interest, who is not also a purchaser of the whole of the settled land to which such documents relate.

Exercise of powers; limitation of provisions, &c.

112.—(1) Where a power of sale, exchange, leasing, mortgaging, charging, or other power is exercised by a tenant for life, or statutory owner or by the trustees of a settlement, he and they may respectively execute, make, and do all deeds, instruments, and things necessary or proper in that behalf.

(2) Where any provision in this Act refers to sale, purchase, exchange, mortgaging, charging, leasing, or other disposition or dealing, or to any power, consent, payment, receipt, deed, assurance, contract, expenses, act, or transaction, it shall (unless the contrary appears) be construed as extending only to sales, purchases, exchanges, mortgages, charges, leases, dispositions, dealings, powers, consents, payments, receipts, deeds, assurances, contracts, expenses, acts, and transactions under this Act.

PART VIII.

COURT, MINISTRY OF AGRICULTURE AND FISHERIES, PROCEDURE.

Jurisdiction and procedure.

113.—(1) All matters within the jurisdiction of the court under this Act shall, subject to the enactments for the time being in force with respect to the procedure of the Supreme Court of Judicature, be assigned to the Chancery Division of the High Court.

(2) The powers of the court may, as regards land in the County Palatine of Lancaster or the County Palatine of Durham, be exercised also by the respective Courts of Chancery of those Counties Palatine.

(3) The powers of the court may, as regards land not exceeding in capital value five hundred pounds, or in annual rateable value thirty pounds, and, as regards capital money arising under this Act, and securities in which the same is invested, not exceeding in amount

or value five hundred pounds, and as regards personal chattels settled or to be settled, as in this Act mentioned, not exceeding in value five hundred pounds, be exercised by any county court within the district whereof is situate any part of the land which is to be dealt with in the court, or from which the capital money to be dealt with in the court arises under this Act, or in connexion with which the personal chattels to be dealt with in the court are settled.

(4) Payment of money into court effectually exonerates therefrom the person making the payment.

(5) Every application to the court under this Act shall, subject to any rules of court to the contrary, be by summons at Chambers.

See Rules of the Supreme Court 1925 1925 W.N. 332

(6) On an application by the trustees of a settlement notice shall be served in the first instance on the tenant for life.

(7) On any application notice shall be served on such persons, if any, as the court thinks fit.

(8) The court shall have full power and discretion to make such order as it thinks fit respecting the costs, charges, or expenses of all or any of the parties to any application, and may, if it thinks fit, order that all or any of those costs, charges, or expenses be paid out of property subject to the settlement.

(9) The provisions of the Trustee Act, 1925, relating to vesting orders and orders appointing a person to convey shall apply to all vesting orders authorised to be made by this Act.

Payment of costs out of settled property.

114. Where the court directs that any costs, charges, or expenses be paid out of property subject to a settlement, the same shall, subject and according to the directions of the court, be raised and paid—

(*a*) out of capital money arising under this Act, or other money liable to be laid out in the purchase of land to be made subject to the settlement ; or

(*b*) out of securities representing such money, or out of income of any such money or securities; or

(*c*) out of any accumulations of income of land, money, or securities; or

(*d*) by means of a sale of part of the settled land in respect whereof the costs, charges, or expenses are incurred, or of other settled land comprised in the same settlement and subject to the same limitations; or

(*e*) by means of a legal mortgage of the settled land or any part thereof to be made by such person as the court directs;

or partly in one of those modes and partly in another or others, or in any such other mode as the court thinks fit.

Powers of the Minister of Agriculture.

27 & 28 Vict. c. 114.

115.—(1) The Minister shall, by virtue of this Act, have for the purposes of any Act, public general or local or private, making provision for the execution of improvements on settled land, all such powers and authorities as he has for the purposes of the Improvement of Land Act, 1864.

(2) The provisions of the last-mentioned Act relating to proceedings and inquiries, and to authentication of instruments, and to declarations, statements, notices, applications, forms, security for expenses, inspections and examinations, shall extend and apply, as far as the nature and circumstances of the case admit, to acts and proceedings done or taken by or in relation to the Minister under any Act making provision as last aforesaid.

(3) The provisions of any Act relating to fees or to security for costs to be taken in respect of the business transacted under the Acts administered by the Minister as successor of the Land Commissioners for England shall extend and apply to the business transacted by or under the direction of the Minister under any Act, public general or local or private, by which any power or duty is conferred or imposed on him as such successor.

Filing of certificates, &c. at the Ministry of Agriculture.

116.—(1) Every certificate and report approved and made by the Minister under this Act shall be filed in the office of the Minister of Agriculture and Fisheries.

(2) An office copy of any certificate or report so filed shall be delivered out of such office to any person

requiring the same, on payment of the proper fee, and shall be sufficient evidence of the certificate or report whereof it purports to be a copy.

PART IX.

SUPPLEMENTARY PROVISIONS.

Definitions.

117.—(1) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say:—

(i) "Building purposes" include the erecting and the improving of, and the adding to, and the repairing of buildings; and a "building lease" is a lease for any building purposes or purposes connected therewith;

(ii) "Capital money arising under this Act" means capital money arising under the powers and provisions of this Act or the Acts replaced by this Act, and receivable for the trusts and purposes of the settlement and includes securities representing capital money;

(iii) "Death duty" means estate duty, succession duty, legacy duty, and every other duty leviable or payable on death;

(iv) "Determinable fee" means a fee determinable whether by limitation or condition;

(v) "Disposition" and "conveyance" include a mortgage, charge by way of legal mortgage, lease, assent, vesting declaration, vesting instrument, disclaimer, release and every other assurance of property or of an interest therein by any instrument, except a will, and "dispose of" and "convey" have corresponding meanings;

(vi) "Dower" includes "freebench";

(vii) "Hereditaments" mean real property which on an intestacy might before the commencement of this Act have devolved on an heir;

(viii) "Instrument" does not include a statute unless the statute creates a settlement;

(ix) "Land" includes land of any tenure, and mines and minerals whether or not held apart from the surface, buildings or parts of buildings (whether the division is horizontal, vertical or

made in any other way) and other corporeal hereditaments; also a manor, an advowson, and a rent and other incorporeal hereditaments, and an easement, right, privilege, or benefit in, over, or derived from land, and any estate or interest in land not being an undivided share in land;

(x) "Lease" includes an agreement for a lease, and "forestry lease" means a lease to the Forestry Commissioners for any purpose for which they are authorised to acquire land by the Forestry Act, 1919;

9 & 10 Geo. 5. c. 58.

(xi) "Legal mortgage" means a mortgage by demise or sub-demise or a charge by way of legal mortgage, and "legal mortgagee" has a corresponding meaning; "legal estate" means an estate interest or charge in or over land (subsisting or created at law) which is by statute authorised to subsist or to be created at law; and "equitable interests" mean all other interests and charges in or over land or in the proceeds of sale thereof; an equitable interest "capable of subsisting at law" means such an equitable interest as could validly subsist at law, if clothed with the legal estate; and "estate owner" means the owner of a legal estate;

(xii) "Limitation" includes a trust, and "trust" includes an implied or constructive trust;

(xiii) "Lunatic" includes a lunatic whether so found or not and in relation to a lunatic not so found, "committee" includes a person on whom the powers of a committee are conferred under section one of the Lunacy Act, 1908; and "defective" means every person affected by the provisions of section one hundred and sixteen of the Lunacy Act, 1890, as extended by section sixty-four of the Mental Deficiency Act, 1913, and for whose benefit a receiver has been appointed;

8 Edw. 7. c. 47.

53 Vict. c. 5. 3 & 4 Geo. 5. c. 28.

(xiv) "Manor" includes lordship, and reputed manor or lordship; and "manorial incident" has the same meaning as in the Law of Property Act, 1922;

(xv) "Mines and minerals" mean mines and minerals whether already opened or in work or not, and include all minerals and substances in, on, or under the land, obtainable by underground or by surface working; and "mining purposes" include the sinking and searching for, winning, working, getting, making merchantable, smelting or otherwise converting or working for the purposes of any manufacture, carrying away, and disposing of mines and minerals, in or under the settled land, or any other land, and the erection of buildings, and the execution of engineering and other works suitable for those purposes; and a "mining lease" is a lease for any mining purposes or purposes connected therewith, and includes a grant or licence for any mining purposes;

(xvi) "Minister" means the Minister of Agriculture and Fisheries;

(xvii) "Notice" includes constructive notice;

(xviii) "Personal representative" means the executor, original or by representation, or administrator, for the time being of a deceased person, and where there are special personal representatives for the purposes of settled land means those personal representatives;

(xix) "Possession" includes receipt of rents and profits, or the right to receive the same, if any; and "income" includes rents and profits;

(xx) "Property" includes any thing in action, and any interest in real or personal property;

(xxi) "Purchaser" means a purchaser in good faith for value, and includes a lessee, mortgagee or other person who in good faith acquires an interest in settled land for value; and in reference to a legal estate includes a chargee by way of legal mortgage;

(xxii) "Rent" includes yearly or other rent, and toll, duty, royalty, or other reservation, by the acre, or the ton, or otherwise; and, in relation to rent, "payment" includes delivery; and "fine" includes premium or fore-gift, and any payment, consideration, or benefit in the nature of a fine, premium, or fore-gift;

(xxiii) "Securities" include stocks, funds, and shares;

(xxiv) "Settled land" includes land which is deemed to be settled land; "settlement" includes an instrument or instruments which under this Act or the Acts which it replaces is or are deemed to be or which together constitute a settlement, and a settlement which is deemed to have been made by any person or to be subsisting for the purposes of this Act; "a settlement subsisting "at the commencement of this Act" includes a settlement created by virtue of this Act immediately on the commencement thereof; and "trustees of the settlement" mean the trustees thereof for the purposes of this Act howsoever appointed or constituted;

(xxv) "Small dwellings" mean dwelling-houses of a rateable value not exceeding one hundred pounds per annum;

(xxvi) "Statutory owner" means the trustees of the settlement or other persons who, during a minority, or at any other time when there is no tenant for life, have the powers of a tenant for life under this Act, but does not include the trustees of the settlement, where by virtue of an order of the court or otherwise the trustees have power to convey the settled land in the name of the tenant for life;

(xxvii) "Steward" includes deputy steward, or other proper officer, of a manor;

(xxviii) "Tenant for life" includes a person (not being a statutory owner) who has the powers of a tenant for life under this Act, and also (where the context requires) one of two or more persons who together constitute the tenant for life, or have the powers of a tenant for life; and "tenant in tail" includes a person entitled to an entailed interest in any property; and "entailed interest" has the same meaning as in the Law of Property Act, 1925;

(xxix) A "term of years absolute" means a term of years, taking effect either in possession or in reversion, with or without impeachment for waste, whether at a rent or not and whether subject or not to another legal estate, and

whether certain or liable to determination by notice, re-entry, operation of law, or by a provision for cesser on redemption, or in any other event (other than the dropping of a life, or the determination of a determinable life interest), but does not include any term of years determinable with life or lives or with the cesser of a determinable life interest, nor, if created after the commencement of this Act, a term of years which is not expressed to take effect in possession within twenty-one years after the creation thereof where required by statute to take effect within that period; and in this definition the expression "term of years" includes a term for less than a year, or for a year or years and a fraction of a year or from year to year;

(xxx) "Trust corporation" means the Public Trustee or a corporation either appointed by the court in any particular case to be a trustee or entitled by rules made under subsection (3) of section four of the Public Trustee Act, 1906, to act as custodian trustee, and "trust for sale" "trustees for sale" and "power to postpone a sale" have the same meanings as in the Law of Property Act, 1925;

(xxxi) In relation to settled land "vesting deed" or "vesting order" means the instrument whereby settled land is conveyed to or vested or declared to be vested in a tenant for life or statutory owner; "vesting assent" means the instrument whereby a personal representative, after the death of a tenant for life or statutory owner, or the survivor of two or more tenants for life or statutory owners, vests settled land in a person entitled as tenant for life or statutory owner; "vesting instrument" means a vesting deed, a vesting assent or, where the land affected remains settled land, a vesting order; "principal vesting instrument" includes any vesting instrument other than a subsidiary vesting deed; and "trust instrument" means the instrument whereby the trusts of the settled land are declared, and includes any two or more

such instruments and a settlement or instrument which is deemed to be a trust instrument;

(xxxii) "United Kingdom" means Great Britain and Northern Ireland;

(xxxiii) "Will" includes codicil.

(2) Where an equitable interest in or power over property arises by statute or operation of law, references to the "creation" of an interest or power include any interest or power so arising.

(3) References to registration under the Land Charges Act, 1925, apply to any registration made under any statute which is by the Land Charges Act, 1925, to have effect as if the registration had been made under that Act.

Retrospective amendment of certain provisions of Settled Land Acts.

118. For the purpose of removing certain doubts as to the construction and operation of the Settled Land Acts, 1882 to 1890, and validating past transactions, the provisions contained in the Fourth Schedule to this Act shall have effect.

Subject as aforesaid, this Act does not affect the validity of anything done or any order made or directions given by the court before the commencement of this Act.

Repeals, savings, and construction. 52 & 53 Vict. c. 63.

119.—(1) The Acts mentioned in the Fifth Schedule to this Act are hereby repealed, to the extent specified in the third column of that Schedule:

Provided that, without prejudice to the provisions of section thirty-eight of the Interpretation Act, 1889:—

(*a*) Nothing in this repeal shall affect the validity or legality of any dealing in land or other transaction completed before the commencement of this Act, or any title or right acquired or appointment made before the commencement of this Act, but, subject as aforesaid, this Act shall, except where otherwise expressly provided, apply to and in respect of settlements and other instruments whether made or coming into operation before or after the commencement of this Act;

(*b*) Nothing in this repeal shall affect any rules, orders, or other instruments made under any enactment so repealed, but all such rules, orders

and instruments shall continue in force as if made under the corresponding enactment in this Act;

(*c*) References in any document to any enactment repealed by this Act shall be construed as references to this Act or the corresponding enactment in this Act.

(2) References in any statute to the Settled Estates Act, 1877, and to any enactment which it replaced shall be construed as references to this Act.

(3) This Act, as respects registered land, takes effect subject to the provisions of the Land Registration Act, 1925.

Short title, commencement and extent.

120.—(1) This Act may be cited as the Settled Land Act, 1925.

(2) This Act shall come into operation on the first day of January, nineteen hundred and twenty-six.

(3) This Act extends to England and Wales only.

SCHEDULES.

FIRST SCHEDULE.

Section 15.

FORMS OF INSTRUMENTS.

FORM NO. 1.

VESTING DEED FOR GIVING EFFECT TO A SETTLEMENT SUBSISTING AT THE COMMENCEMENT OF THIS ACT.

This Vesting Deed is made [&c.] between *X.* of [&c.] and *Y.* of [&c.] (hereinafter called the trustees) of the one part and *T.L.* of [&c.] of the other part.

[*Recite the Settlement under which T.L. is a tenant for life of full age in possession of the freeholds and leaseholds respectively described in the First and Second Schedules and has power to appoint new trustees, and the trustees are trustees for the purposes of the Settled Land Act*, 1925, *also the request by T.L. that the trustees should execute the requisite vesting deed.*]

1ST SCH. —*cont.*

Now for giving effect to the requirements of the Settled Land Act, 1925, this deed witnesseth as follows :—

1. The trustees as Trustees hereby declare that—

All and singular the hereditaments and premises respectively mentioned in the First and Second Schedules hereto and all other (if any) the premises capable of being vested by this declaration which are now by any means subject to the limitations of the recited settlement are vested in the said *T.L.* as to the freehold hereditaments mentioned in the First Schedule hereto in fee simple, and as to the leasehold hereditaments mentioned in the Second Schedule hereto, for all the residue of the terms of years for which the same are respectively held.

2. The said *T.L.* shall stand possessed of the premises upon the trusts and subject to the powers and provisions upon and subject to which under the recited settlement or otherwise the same ought to be held from time to time.

3. The trustees are the trustees of the settlement for the purposes of the Settled Land Act, 1925.

4. The following additional or larger powers are conferred by the said settlement in relation to the settled land, and by virtue of the Settled Land Act, 1925, operate and are exercisable as if conferred by that Act on a tenant for life [*Here insert the additional powers*].

5. [*Add the usual covenant by T.L. with the trustees to pay the rent in respect of leasehold hereditaments, observe the lessee's covenants and keep the trustees indemnified.*]

6. The power to appoint a new trustee or new trustees of the settlement is vested in the said *T.L.* during his life.

In witness [&c.].

[NOTE.—Add the schedules. In the first part of the First Schedule give particulars of the manors, advowsons and other incorporeal hereditaments. In the second part give particulars of the freehold land referring, if practicable, to annexed plans, so that the vesting deed may ultimately become a convenient root of title. Unless this is done the deeds referred to will for purposes of the parcels remain part of the title. In the Second Schedule give particulars of the dates of and parties to the leases of the leasehold hereditaments, and short particulars of the properties demised, the terms and the rents. If there are any mortgages having priority to the settlement these should be mentioned in another schedule and referred to in the recitals.]

1ST SCH. *cont.*

FORM NO. 2.

VESTING DEED ON THE SETTLEMENT OF LAND.

This Vesting Deed made [&c.] between *John H.* of [&c.] of the first part, *Jane W.* of [&c.] of the second part, and *X.* of [&c.], *Y.* of [&c.], and *Z.* of [&c.] (hereinafter called the trustees) of the third part.

Witnesseth and it is hereby declared as follows :—

1. In consideration of the intended marriage between *John H.* and *Jane W.* the said *John H.* as Settlor hereby declares that

All that (*setting out the parcels by reference to a schedule or otherwise*) are vested in *John H.* in fee simple (*or in the case of leaseholds refer to the terms*).

Upon the trusts declared concerning the same by a Trust Instrument bearing even date with but intended to be executed contemporaneously with these presents and made between the same parties and in the same order as these presents or upon such other trusts as the same ought to be held from time to time.

2. The trustees are the trustees of the settlement for the purposes of the Settled Land Act, 1925.

3. The following additional or larger powers are conferred by the said trust instrument in relation to the settled land and by virtue of the Settled Land Act, 1925, operate and are exercisable as if conferred by that Act on a tenant for life. [*Here insert the additional powers.*]

4. The power of appointing a new trustee or new trustees of the settlement is vested in the said [*John H.*] during his life.

In witness [&c.].

FORM NO. 3.

TRUST INSTRUMENT ON THE SETTLEMENT OF LAND.

This Trust Instrument is made [&c.] between *John H.* of [&c.] (hereinafter called the Settlor) of the first part, *Jane W.* of [&c.] of the second part, and *X.* of [&c.], *Y.* of [&c.], and *Z.* of [&c.] (hereinafter called the trustees) of the third part.

Whereas by a deed (hereinafter called the Vesting Deed) bearing even date with but executed contemporaneously with these presents, and made between the same parties and in the same order as these presents, certain hereditaments situated at in the county of were vested in the Settlor Upon the trusts declared concerning the same by a trust instrument of even date therein referred to (meaning these presents).

1ST SCH. —*cont.*

Now in consideration of the intended marriage between the Settlor and *Jane W.*, this Deed witnesseth as follows :—

1. The Settlor hereby agrees that he will hold the hereditaments and property comprised in the Vesting Deed In trust for himself until the solemnisation of the said marriage and thereafter Upon the trusts following, that is to say :—

2. Upon trust for the Settlor during his life without impeachment of waste with remainder Upon trust if *Jane W.* survives him that she shall receive out of the premises during the residue of her life a yearly jointure rentcharge of [&c.] and subject thereto Upon trust for the trustees for a term of 800 years from the date of the death of the Settlor without impeachment of waste Upon the trusts hereinafter declared concerning the same. And subject to the said term and the trusts thereof Upon trust for the first and other sons of the said intended marriage successively according to seniority in tail male with remainder [&c.] *with an ultimate remainder in trust for the Settlor in fee simple.*

[*Here add the requisite trusts of the portions term, and any other proper provisions including the appointment of the trustees to be trustees of the settlement for the purposes of the Settled Land Act*, 1925, *extension of Settled Land Act powers, and a power for the tenant for life for the time being of full age to appoint new trustees of the settlement.*]

In witness [&c.].

[NOTE.—The Vesting Deed and the Trust Instrument can be executed as escrows till the marriage.]

FORM NO. 4.

SUBSIDIARY VESTING DEED ON SALE WHEN THE LAND IS PURCHASED WITH CAPITAL MONEY.

This Subsidiary Vesting Deed is made [&c.] between *Henry V.* of [&c.] (hereinafter called the Vendor) of the first part, *X.* of [&c.], *Y.* of [&c.], and *Z.* of [&c.] (hereinafter called the trustees) of the second part, and *John H.* [&c.] (hereinafter called the Purchaser) of the third part.

Whereas the Vendor is entitled for an estate in fee simple in possession free from incumbrances to the hereditaments hereinafter conveyed and has agreed to sell the same to the Purchaser at the price of pounds.

And whereas by a principal vesting deed (hereinafter called the principal deed) dated [&c.], and made [&c.] [*Form No.* 2], certain hereditaments were vested in the Purchaser Upon the trusts of a trust instrument of even date therewith, and by [endorsements on] the principal deed the trustees were stated to be the trustees of the settlement for the purposes of the Settled Land Act, 1925.

1ST SCH. —*cont.*

Now this Deed witnesseth as follows :—

1. In consideration of the sum of pounds now paid to the Vendor by the trustees by the direction of the Purchaser (the receipt of which sum the Vendor hereby acknowledges) the Vendor as Beneficial Owner hereby conveys unto the Purchaser All those [&c.].

To hold unto the Purchaser [in fee simple] upon and subject to the same trusts and powers as are declared by the principal deed by reference as aforesaid with respect to the hereditaments therein comprised.

2 and 3. [*Same as* 2 *and* 4 *in Form No.* 2].

In witness [&c.].

NOTE.—On a purchase of a term of years absolute out of capital money, the term must be conveyed to the tenant for life, if any, of full age, instead of to the trustees of the settlement. If there is a minority the land will be conveyed to the personal representatives or to the Settled Land Act trustees.

FORM NO. 5.

VESTING ASSENT BY PERSONAL REPRESENTATIVE.

1. *E.F.* of [&c.] and *G.H.* of [&c.] as the personal representatives of *X.Y.*, late of [&c.] deceased, do this day of 19 hereby, As Personal Representatives, assent to the vesting in *C.D.* of [&c.] of [All that farm &c.] *or* [All the property described in the Schedule hereto] for all the estate or interest of the said *X.Y.* at the time of his death [*or*, for an estate in fee simple].

2. The premises are vested in the said *C.D.* upon the trusts declared concerning the same by [&c.].

3. The said *E.F.* and *G.H.* are the trustees of the settlement for the purposes of the Settled Land Act, 1925.

4 and 5. [*Same as* 3 *and* 4 *in Form No.* 2].

As witness, &c.

NOTE.—The expression "conveyance" includes an assent, but an assent will relate back to the death unless a contrary intention appears.

An assent will not be properly postponed merely because death duty remains to be paid. The representatives have only to be satisfied (*e.g.* where the tenant for life has directed payment out of capital money or has executed a mortgage for raising the money as and when an instalment becomes due) that the duty will be paid.

Section 37.

SECOND SCHEDULE.

TRANSITIONAL PROVISIONS AFFECTING EXISTING SETTLEMENTS.

Paragraph 1.

PROVISIONS FOR VESTING LEGAL ESTATE IN TENANT FOR LIFE OR STATUTORY OWNER.

1.—(1) A settlement subsisting at the commencement of this Act is, for the purposes of this Act, a trust instrument.

(2) As soon as practicable after the commencement of this Act, the trustees for the purposes of this Act of every settlement of land subsisting at the commencement of this Act (whether or not the settled land is already vested in them), may and on the request of the tenant for life or statutory owner, shall at the cost of the trust estate, execute a principal vesting deed (containing the proper statements and particulars) declaring that the legal estate in the settled land shall vest or is vested in the person or persons therein named (being the tenant for life or statutory owner, and including themselves if they are the statutory owners), and such deed shall (unless the legal estate is already so vested) operate to convey or vest the legal estate in the settled land to or in the person or persons aforesaid and, if more than one, as joint tenants.

(3) If there are no trustees of the settlement then (in default of a person able and willing to appoint such trustees), an application shall be made to the court by the tenant for life or statutory owner, or by any other person interested, for the appointment of such trustees.

(4) If default is made in the execution of any such principal vesting deed, the provisions of this Act relating to vesting orders of settled land shall apply in like manner as if the trustees of the settlement were persons in whom the settled land is wrongly vested.

(5) This paragraph does not apply where, at the commencement of this Act, settled land is held at law or in equity in undivided shares vested in possession.

(6) In the case of settlements subsisting at the commencement of this Act, all the estates, interests and powers thereby limited which are not by statute otherwise converted into equitable interests or powers, shall, as from the date of the principal vesting deed or the vesting order, take effect only in equity.

(7) This paragraph does not apply where settled land is vested in personal representatives at the commencement of this Act, or where settled land becomes vested in personal representatives

2ND SCH. —*cont.*

before a principal vesting deed has been executed pursuant to this paragraph.

(8) No ad valorem stamp duty shall be payable in respect of a vesting deed or order made for giving effect to an existing settlement.

Paragraph 2.

PROVISIONS WHERE SETTLED LAND IS AT COMMENCEMENT OF ACT VESTED IN PERSONAL REPRESENTATIVES.

2.—(1) Where settled land remains at the commencement of this Act vested in the personal representatives of a person who dies before such commencement, or becomes vested in personal representatives before a principal vesting deed has been executed pursuant to the last preceding paragraph, the personal representatives shall hold the settled land on trust, if and when required so to do, to convey the same to the person who, under the trust instrument, or by virtue of this Act, is the tenant for life or statutory owner and, if more than one, as joint tenants.

(2) A conveyance under this paragraph shall be made at the cost of the trust estate and may be made by an assent in writing signed by the personal representatives which shall operate as a conveyance. No stamp duty is payable in respect of a vesting assent.

(3) The obligation to convey settled land imposed on the personal representatives by this paragraph is subject and without prejudice—

(*a*) to their rights and powers for purposes of administration, and

(*b*) to their being satisfied that provision has been or will be made for the payment of any unpaid death duties in respect of the land or any interest therein for which they are accountable, and any interest and costs in respect of such duties, or that they are otherwise effectually indemnified against such duties, interest and costs.

(4) A conveyance under this paragraph shall—

(*a*) if by deed, be a principal vesting deed, and

(*b*) if by an assent, be a vesting assent, which shall contain the like statements and particulars as are required by this Act in the case of a principal vesting deed.

(5) Nothing contained in this paragraph affects the rights of personal representatives to transfer or create such legal estates to take effect in priority to a conveyance under this paragraph as may be required for giving effect to the obligations imposed on them by statute.

(6) A conveyance by personal representatives under this paragraph, if made by deed, may contain a reservation to themselves of a term of years absolute in the land conveyed upon trusts for

2ND SCH. —*cont.*

indemnifying them against any unpaid death duties in respect of the land conveyed or any interest therein, and any interest and costs in respect of such duties.

(7) Nothing contained in this paragraph affects any right which a person entitled to an equitable charge for securing money actually raised, and affecting the whole estate the subject of the settlement, may have to require effect to be given thereto by a legal mortgage, before the execution of a conveyance under this section.

Paragraph 3.

PROVISIONS AS TO INFANTS.

3.—(1) Where, at the commencement of this Act, an infant is beneficially entitled to land in possession for an estate in fee simple or for a term of years absolute, or would, if of full age, be a tenant for life or have the powers of a tenant for life, the settled land shall, by virtue of this Act, vest in the trustees (if any) of the settlement upon such trusts as may be requisite for giving effect to the rights of the infant and other persons (if any) interested:

Provided that, if there are no such trustees, then—

(i) Pending their appointment, the settled land shall, by virtue of this Act, vest in the Public Trustee upon the trusts aforesaid:

(ii) The Public Trustee shall not be entitled to act in the trust, or charge any fee, or be liable in any manner unless and until requested in writing to act on behalf of the infant by his parents or parent or testamentary or other guardian in the order named:

(iii) After the Public Trustee has been so requested to act, and has accepted the trust, he shall become the trustee of the settlement, and no trustee shall (except by an order of the court) be appointed in his place without his consent:

(iv) If there is no other person able and willing to appoint trustees the parents or parent or testamentary or other guardian of the infant, if respectively able and willing to act, shall (in the order named) have power by deed to appoint trustees of the settlement in place of the Public Trustee in like manner as if the Public Trustee had refused to act in the trust, and to vest the settled land in them on the trusts aforesaid, and the provisions of the Trustee Act, 1925, relating to the appointment of new trustees, and the vesting of trust property shall apply as if the persons aforesaid (in the order named) had been nominated by the settlement for the purpose of appointing new trustees thereof; and in default of any such appointment

the infant by his next friend, may, at any time during the minority, apply to the court for the appointment of trustees of the settlement, and the court may make such order as it thinks fit, and if thereby trustees of the settlement are appointed, the settled land shall, by virtue of this Act, vest in the trustees as joint tenants upon the trusts aforesaid:

Provided that in favour of a purchaser a statement in the deed of appointment that the father or mother or both are dead or are unable or unwilling to make the appointment shall be conclusive evidence of the fact stated.

(v) If land to which an infant is beneficially entitled in possession for an estate in fee simple or for a term of years absolute vests in the Public Trustee, but the Public Trustee does not become the trustee of the settlement, and trustees of the settlement are not appointed in his place, then, if and when the infant attains the age of twenty-one years, the land shall vest in him.

(2) The provisions of this paragraph shall extend to the legal estate in the settled land, except where such legal estate is, at or immediately after the commencement of this Act, vested in personal representatives, in which case this paragraph shall have effect without prejudice to the provisions of paragraph two of this Schedule.

(3) Where, at the commencement of this Act, any persons appointed under section sixty of the Settled Land Act, 1882, have power to act generally or for any specific purpose on behalf of an infant, then those persons shall, by virtue of this Act, become and be the trustees of the settlement.

(4) Notwithstanding that the settled land is by virtue of this paragraph vested in the trustees of the settlement, they shall, at the cost of the trust estate, in accordance with this Act, execute a principal vesting deed declaring that the settled land is vested in them.

(5) This paragraph does not apply where an infant is beneficially entitled in possession to land for an estate in fee simple or for a term of years absolute jointly with a person of full age (for which case provision is made in the Law of Property Act, 1925), but it applies to two or more infants entitled as aforesaid jointly.

(6) This paragraph does not apply where an infant would, if of full age, constitute the tenant for life or have the powers of a tenant for life together with another person of full age, but it applies to two or more infants who would, if all of them were of full age, together constitute the tenant for life or have the powers of a tenant for life.

Section 83.

THIRD SCHEDULE.

PART I.

IMPROVEMENTS, THE COSTS OF WHICH ARE NOT LIABLE TO BE REPLACED BY INSTALMENTS.

(i) Drainage, including the straightening, widening, or deepening of drains, streams, and watercourses:

(ii) Bridges:

(iii) Irrigation; warping:

(iv) Drains, pipes, and machinery for supply and distribution of sewage as manure:

(v) Embanking or weiring from a river or lake, or from the sea, or a tidal water:

(vi) Groynes; sea walls; defences against water:

(vii) Inclosing; straightening of fences; re-division of fields:

(viii) Reclamation; dry warping:

(ix) Farm roads; private roads; roads or streets in villages or towns:

(x) Clearing; trenching; planting:

(xi) Cottages for labourers, farm-servants, and artisans, employed on the settled land or not:

(xii) Farmhouses, offices, and outbuildings, and other buildings for farm purposes:

(xiii) Saw-mills, scutch-mills, and other mills, water-wheels, engine-houses, and kilns, which will increase the value of the settled land for agricultural purposes or as woodland or otherwise:

(xiv) Reservoirs, tanks, conduits, watercourses, pipes, wells, ponds, shafts, dams, weirs, sluices, and other works and machinery for supply and distribution of water for agricultural, manufacturing, or other purposes, or for domestic or other consumption:

(xv) Tramways; railways; canals; docks:

(xvi) Jetties, piers, and landing places on rivers, lakes, the sea, or tidal waters, for facilitating transport of persons and of agricultural stock and produce, and of manure and other things required for agricultural purposes, and of minerals, and of things required for mining purposes:

(xvii) Markets and market-places:

(xviii) Streets, roads, paths, squares, gardens, or other open spaces for the use, gratuitously or on payment, of the public or of individuals, or for dedication to the public, the same being necessary or proper in connexion with the conversion of land into building land:

3RD SCH. —*cont.*

(xix) Sewers, drains, watercourses, pipe-making, fencing, paving, brick-making, tile-making, and other works necessary or proper in connexion with any of the objects aforesaid:

(xx) Trial pits for mines, and other preliminary works necessary or proper in connexion with development of mines:

(xxi) Reconstruction, enlargement, or improvement of any of those works:

(xxii) The provision of small dwellings, either by means of building new buildings or by means of the reconstruction, enlargement, or improvement of existing buildings, if that provision of small dwellings is, in the opinion of the court, not injurious to the settled land or is agreed to by the tenant for life and the trustees of the settlement:

(xxiii) Additions to or alterations in buildings reasonably necessary or proper to enable the same to be let:

(xxiv) Erection of buildings in substitution for buildings within an urban sanitary district taken by a local or other public authority, or for buildings taken under compulsory powers, but so that no more money be expended than the amount received for the buildings taken and the site thereof:

(xxv) The rebuilding of the principal mansion house on the settled land:

Provided that the sum to be applied under this head shall not exceed one-half of the annual rental of the settled land.

PART II.

IMPROVEMENTS, THE COSTS OF WHICH THE TRUSTEES OF THE SETTLEMENT OR THE COURT MAY REQUIRE TO BE REPLACED BY INSTALMENTS.

(i) Residential houses for land or mineral agents, managers, clerks, bailiffs, woodmen, gamekeepers and other persons employed on the settled land, or in connexion with the management or development thereof:

(ii) Any offices, workshops and other buildings of a permanent nature required in connexion with the management or development of the settled land or any part thereof:

(iii) The erection and building of dwelling houses, shops, buildings for religious, educational, literary, scientific, or public purposes, market places, market houses, places of amusement and entertainment, gasworks, electric light or power works, or any other works necessary or proper in connexion with the development of the settled land, or any part thereof as a building estate:

(iv) Restoration or reconstruction of buildings damaged or destroyed by dry rot:

(v) Structural additions to or alterations in buildings reasonably required, whether the buildings are intended to be let or not, or are already let:

3RD SCH. —*cont.*

(vi) Boring for water and other preliminary works in connexion therewith.

PART III.

IMPROVEMENTS, THE COSTS OF WHICH THE TRUSTEES OF THE SETTLEMENT AND THE COURT MUST REQUIRE TO BE REPLACED BY INSTALMENTS.

(i) Heating, hydraulic or electric power apparatus for buildings, and engines, pumps, lifts, rams, boilers, flues, and other works required or used in connexion therewith:

(ii) Engine houses, engines, gasometers, dynamos, accumulators, cables, pipes, wiring, switchboards, plant and other works required for the installation of electric, gas, or other artificial light, in connexion with any principal mansion house, or other house or buildings; but not electric lamps, gas fittings, or decorative fittings required in any such house or building:

(iii) Steam rollers, traction engines, motor lorries and moveable machinery for farming or other purposes.

Section 118.

FOURTH SCHEDULE.

RETROSPECTIVE AMENDMENTS OF THE SETTLED LAND ACTS, 1882 TO 1890.

Shifting of incumbrances.

1. The power conferred by section five of the Settled Land Act, 1882, of shifting incumbrances on a sale, exchange, or partition, shall be deemed always to have authorised a charge on all or any part of the capital money or securities representing capital money arising from the transaction or otherwise subject to the settlement, and incumbrance in section five aforesaid shall be deemed always to have included any incumbrance, whether capable of being overreached on the exercise by the tenant for life of the powers conferred by the Settled Land Acts, 1882 to 1890, or not.

Rate of interest on incumbrances.

2. In the case of an incumbrance affecting the settled land, or any part thereof, the tenant for life shall be deemed always to have had power, with the consent of the incumbrancer, to vary the rate of interest charged, and any of the other provisions of the instrument (if any) creating the incumbrance.

Dedication for streets, open spaces, &c.

3.—(1) Section sixteen of the Settled Land Act, 1882, shall be deemed always to have had effect, as if the words " after or " had been inserted after the words " On or," and the words " or " the development of the settled land, or any part thereof, as a

" building estate, or at any other reasonable time " had been inserted after the words " building lease." 4TH SCH. —*cont.*

(2) A tenant for life shall be deemed always to have had power—

(*a*) to enter into any agreement for the recompense to be made for any part of the settled land required for the widening of a highway under section eighty-two of the Highway Act, 1835, or otherwise; 5 & 6 Will. 4. c. 50.

(*b*) to consent to the diversion of any highway over the settled land under section eighty-five of that Act or otherwise; and

(*c*) to consent to any such road as is mentioned in section thirty-six of the Highway Act, 1862, being declared a public highway; 25 & 26 Vict. c. 61.

and any agreement or consent so made or given shall be deemed to have been as valid and effectual, for all purposes, as if made or given by an absolute owner of the settled land, provided that any money received or receivable in respect of such agreement or consent was or is paid to the trustees of the settlement or into court as capital money.

Separate dealings with surface and minerals.

4. Subsection (1) of section seventeen of the Settled Land Act, 1882, shall be deemed always to have had effect, as if the words " or mining " had not been contained therein, and the words " or other authorised disposition " had been inserted therein after the word " lease."

Powers on sale, &c.

5. On a sale or other disposition made before the commencement of this Act under the powers of the Settled Land Acts, 1882 to 1890, the powers conferred by subsection (1) of section forty-nine of this Act shall be deemed to have been exercisable.

Sale of timber and fixtures at a valuation.

6. In favour of a purchaser, a sale made before the commencement of this Act shall not be deemed to have been invalidated by reason only of any such stipulation as mentioned in subsection (2) of section forty-nine of this Act, provided that the amount of the valuation was paid to the trustees of the settlement or into court.

Raising of money.

7. Where under the Settled Land Acts, 1882 to 1890, power was given to raise money for any purpose, the power shall be deemed always to have included power to raise the money properly required for the payment of the costs of the transaction.

Provision where interest in settled land is restored.

8. A person entitled to an estate or interest, whether legal or equitable, in settled land shall in the circumstances mentioned in section twenty-two of this Act be deemed always to have been entitled to such estate and interest and to exercise such powers as is in that section mentioned.

4TH SCH. —*cont.*

Referential settlements.

9. Where a settlement has before the commencement of this Act taken effect by reference to another settlement, the trustees who would by virtue of section thirty-two of this Act be the trustees of the settlement by reference shall be deemed always to have been the trustees of such settlement.

Application of capital money.

10 Ed. 7. c. 8.

10.—(1) Capital money arising under the Settled Land Acts, 1882 to 1890, shall be deemed always to have been capable of being applied in paying any increment value duty which a tenant for life had power to charge on the settled land under section thirty-nine of the Finance (1909–10) Act, 1910, and any reversion duty, and any costs and expenditure incurred by the tenant for life, or the trustees of the settlement, in connexion with any valuation under the said Act, or with the assessment and ascertainment of the amount of any increment value duty which a tenant for life had power to charge as aforesaid, or any reversion duty.

(2) Capital money arising under the Settled Land Acts, 1882 to 1890, shall be deemed always to have been capable of being applied in any of the modes mentioned in paragraphs (xiii) to (xvi) inclusive of subsection (1) of section seventy-three of this Act as well as in the modes authorised by section twenty-one of the Settled Land Act, 1882.

As to capital arising otherwise than under the Settled Land Acts.

11. Where before the commencement of this Act any money arising from settled land, otherwise than under the Settled Land Acts, 1882 to 1890, which ought, as between the persons interested in the settled land, to have been treated as capital, has been invested, applied, or otherwise dealt with as if it had been capital money arising under those Acts, such investment, application, or other dealing shall be deemed to have been valid.

Power for Public Trustee to give receipts and accept notices.

12. Where the Public Trustee or any other trust corporation was sole trustee of a settlement, the corporation shall, notwithstanding anything to the contrary contained in sections thirty-nine and forty-five of the Settled Land Act, 1882, or the settlement, be deemed always to have had power to give receipts, accept notices, and otherwise act alone as trustee of the settlement for all the purposes of the Settled Land Acts, 1882 to 1890.

Assignments of tenant for life's interest.

13.—(1) Section fifty of the Settled Land Act, 1882, shall be deemed always to have applied, notwithstanding that the estate or interest of the tenant for life under the settlement was not in possession when the assignment was made, or took effect by operation of law.

(2) The expression "assignee for value" in subsection (3) of section fifty of the Settled Land Act, 1882, shall be deemed always to have included persons deriving title under the original assignee.

4TH SCH. —*cont.*

(3) A trustee or personal representative who is an assignee for value shall be deemed always to have had power to consent to the exercise by the tenant for life of his powers under the Settled Land Acts, 1882 to 1890.

(4) A person for the time being entitled in possession under the limitations of such settlement as is mentioned in subsection (7) of section one hundred and four of this Act shall in the circumstances in that subsection mentioned, be deemed always to have had power to consent to the exercise by the tenant for life of his powers under the Settled Land Acts, 1882 to 1890, and to bind by such consent all persons interested or to become interested under the settlement.

As to base fees.

14. It shall be deemed always to have been sufficient to enable the fee simple to be disposed of or dealt with under the Settled Land Acts, 1882 to 1890, by the owner of a base fee as defined by the Fines and Recoveries Act, 1833, or fee determinable, whether by limitation or condition, or the tenant for life thereof, if there were at the time of the transaction trustees for the purposes of those Acts or any of them of the settlement consisting of the instrument whereby the estate tail or determinable fee was created, and the capital money (if any) arising on such disposition or dealing was or is paid to such trustees or into court.

Amendment of s. 58 (1) (ix) of the Act of 1882.

15. Paragraph (ix) of subsection (1) of section fifty-eight of the Settled Land Act, 1882 shall be deemed always to have had effect as if in that paragraph—

(*a*) "trust" included an implied or constructive trust;

(*b*) "forfeiture" included cesser or determination by any means;

(*c*) after the words "expenses of management" there had been inserted the words "or to a trust for accumulation of income for any purpose";

but not so as to render invalid or prejudice any title or right acquired before the commencement of this Act.

Married woman, infant, &c.

16. Sections fifty-nine and sixty of the Settled Land Act, 1882, shall be deemed always to have applied, although the infant was a married woman; and section fifty-nine aforesaid shall be deemed always to have extended to any leasehold interest whether at a rent or not.

Section 119.

FIFTH SCHEDULE.

ENACTMENTS REPEALED.

Session and Chapter.	Short Title.	Extent of Repeal.
22 & 23 Vict. c. 35.	The Law of Property Amendment Act, 1859.	Section thirteen.
40 & 41 Vict. c. 18.	The Settled Estates Act, 1877.	The whole Act.
44 & 45 Vict. c. 41.	The Conveyancing Act, 1881.	Subsections (1) (2) (3) and (7) of section forty-two.
45 & 46 Vict. c. 38.	The Settled Land Act, 1882.	The whole Act except section thirty.
47 & 48 Vict. c. 18.	The Settled Land Act, 1884.	The whole Act.
50 & 51 Vict. c. 30.	The Settled Land Acts (Amendment) Act, 1887.	The whole Act.
51 & 52 Vict. c. 42.	The Mortmain and Charitable Uses Act, 1888.	Subsections (6) and (9) of section four and sections five and nine, so far as those subsections and sections relate to assurances executed after the commencement of this Act.
52 & 53 Vict. c. 47.	The Palatine Court of Durham Act, 1889.	In section ten the words "The Settled Land Act, "1882, and the Settled "Land Act, 1884."
53 & 54 Vict. c. 69.	The Settled Land Act, 1890.	The whole Act.
53 & 54 Vict. c. 70.	The Housing of the Working Classes Act, 1890.	Subsection (1) of section seventy-four.
8 Edw. 7. c. 36.	The Small Holdings and Allotments Act, 1908.	Subsections (4) and (5) of section forty.
9 Edw. 7. c. 44.	The Housing, Town Planning, &c., Act, 1909.	Section seven.

5TH SCH. —*cont.*

Session and Chapter.	Short Title.	Extent of Repeal.
1 & 2 Geo. 5. c. 37.	The Conveyancing Act, 1911.	Section fourteen.
9 & 10 Geo. 5. c. 35.	The Housing, Town Planning, &c., Act, 1919.	Section thirty-one.
9 & 10 Geo. 5. c. 59.	The Land Settlement (Facilities) Act, 1919.	Section twenty-nine.
11 & 12 Geo. 5. c. 20.	The Tithe Annuities Apportionment Act, 1921.	Section two.
12 & 13 Geo. 5. c. 16.	The Law of Property Act, 1922.	Section three, so far as it relates to equitable interests and powers arising under a settlement; sections four, ten and thirteen so far as they relate to settled land; the first paragraph of subsection (4) of section seven; sections twelve and twenty-six; subsection (2) of section twenty-eight; sections thirty-five to forty two; Part II. except such of the provisions thereof as are applied to universities and college estates so far as they apply thereto, and as respects section forty-three except so far as it relates to glebes; section eighty-six. Part II. of the First Schedule so far as it relates to settled land. The Third Schedule so far as it relates to settled land. The Fifth Schedule. In the Sixth Schedule paragraphs one and three and sub-paragraphs (1) (3) and (4) of paragraph four. In the Ninth Schedule Forms Nos. 1 to 4, inclusive, and No. 8 so far as it relates to settled land. The Tenth Schedule.

5TH SCH. —*cont.*

Session and Chapter.	Short Title.	Extent of Repeal.
13 & 14 Geo. 5. c. 9.	The Agricultural Holdings Act, 1923.	Section twenty-one.
15 Geo. 5. c. 5.	The Law of Property (Amendment) Act, 1924.	Section four and the Fourth Schedule.

CHAPTER 19.

An Act to consolidate certain enactments relating to trustees in England and Wales.

[9th April 1925.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

PART I.

INVESTMENTS.

Authorised investments.

1.—(1) A trustee may invest any trust funds in his hands, whether at the time in a state of investment or not, in manner following, that is to say :

(*a*) In any of the parliamentary stocks or public funds or Government securities of the United Kingdom;

(*b*) On real or heritable securities in the United Kingdom, including the security of a charge on freehold land by way of legal mortgage and a charge under section thirty-three of the Finance Act, 1896;

56 & 57 Vict c. 28.

(*c*) In the stock of the Bank of England or the Bank of Ireland;

(*d*) In India Seven, Five and a half, Four and a half, Three and a half, Three and Two and a

half per cent. stock, or in any other capital stock which may at any time be issued by the Secretary of State in Council of India under the authority of any Act of Parliament, and charged on the revenues of India, or any other securities the interest in sterling whereon is payable out of and charged on the revenues of India;

(*e*) In any securities the interest of which is for the time being guaranteed by Parliament;

(*f*) In consolidated stock created by the Metropolitan Board of Works, or by the London County Council, or in debenture stock created by the Receiver for the Metropolitan Police District, or in metropolitan water stock;

(*g*) In the debenture or rentcharge, or guaranteed or preference, stock of any railway company in the United Kingdom incorporated by special Act of Parliament, and having during each of the ten years last past before the date of investment paid a dividend at the rate of not less than three per centum on its ordinary stock;

(*h*) In the stock of any railway or canal company in the United Kingdom whose undertaking is leased in perpetuity or for a term of not less than two hundred years at a fixed rental to any such railway company as is mentioned in paragraph (*g*) of this subsection, either alone or jointly with any other railway company;

(*i*) In the debenture stock of any company owning or operating a railway in India the interest in sterling on which is paid or guaranteed by the Secretary of State in Council of India;

(*j*) In the "B" annuities of the Eastern Bengal, the East Indian, the Scinde Punjaub and Delhi, Great Indian Peninsula and Madras Railways, or in any securities substituted therefor, and any like annuities which may at any time after the commencement of this Act be created on the purchase of any other railway by the Secretary of State in Council of India, and charged on the

revenues of India, and which may be authorised by Act of Parliament to be accepted by trustees in lieu of any stock held by them in the purchased railway; also in deferred annuities comprised in the register of holders of annuity Class D and annuities comprised in the register of annuitants Class C of the East Indian Railway Company;

(*k*) In the stock of any company owning or operating a railway in India upon which a fixed or minimum dividend in sterling is paid or guaranteed by the Secretary of State in Council of India, or upon the capital of which the interest is so guaranteed;

(*l*) In the debenture or guaranteed or preference stock of any company in the United Kingdom established for the supply of water for profit, and incorporated by special Act of Parliament or by Royal Charter, and having during each of the ten years last past before the date of investment paid a dividend of not less than five per centum on its ordinary stock;

(*m*) In nominal or inscribed stock issued, or to be issued, under the authority of any Act of Parliament or Provisional Order, by the corporation of any municipal borough in the United Kingdom having, according to the returns of the last census prior to the date of investment, a population exceeding fifty thousand, or by any county council in the United Kingdom;

(*n*) In nominal or inscribed stock issued or to be issued by any commissioners incorporated by Act of Parliament for the purpose of supplying water, and having a compulsory power of levying rates over an area having according to the returns of the last census prior to the date of investment a population exceeding fifty thousand, provided that during each of the ten years last past before the date of investment the rates levied by such commissioners have not exceeded eighty per centum of the amount authorised by law to be levied;

(*o*) In any stocks, funds, or securities authorised under the Colonial Stock Act, 1900, or any Act extending the same, but subject to any restrictions thereby imposed; 63 & 64 Vict. c. 62.

(*p*) In any local bonds issued under the Housing (Additional Powers) Act, 1919, and mortgages of any fund or rate granted after the passing of that Act under the authority of any Act or Provisional Order by a local authority (including a county council) which is authorised to issue local bonds under that Act; 9 & 10 Geo. 5. c. 99.

(*q*) In any stock or securities issued in respect of any loan raised by the Government of Northern Ireland;

(*r*) In any of the stocks, funds, or securities for the time being authorised for the investment of cash under the control or subject to the order of the court;

and may also from time to time vary any such investment.

(2) For the purposes of this section—

(*a*) the London and North Eastern Railway Company, the Southern Railway Company, the London Midland and Scottish Railway Company, and the Great Western Railway Company shall each be treated as if it were a railway company in Great Britain incorporated by a special Act of Parliament which had in each of the ten years immediately before the date of amalgamation paid a dividend at a rate of not less than three per centum on its ordinary stock, and, for the purposes of this provision the date of amalgamation means—

(i) as respects the London and North Eastern Railway Company and the Southern Railway Company the first day of January, nineteen hundred and twenty-three; and

(ii) as respects the London Midland and Scottish Railway Company and the Great Western Railway Company the first day

of July, nineteen hundred and twenty-three;

(*b*) a railway or canal company in Northern Ireland whose system is situate partly in Northern Ireland and partly in the Irish Free State shall not be deemed to be a railway or canal company in Northern Ireland.

Purchase at a premium of redeemable stocks; change of character of investment.

2.—(1) A trustee may under the powers of this Act invest in any of the securities mentioned or referred to in section one of this Act, notwithstanding that the same may be redeemable, and that the price exceeds the redemption value.

Provided that, in the case of any stock mentioned or referred to in paragraphs (*g*), (*i*), (*k*), (*l*), (*m*), (*o*), (*p*) and (*q*) of subsection (1) of section one of this Act, which is liable to be redeemed at par or at some other fixed rate, a trustee shall not be entitled to purchase the stock—

(*a*) at a price exceeding fifteen per centum above par or such other fixed rate; nor

(*b*) if the stock is liable to be so redeemed as aforesaid within fifteen years of the date of purchase, at a price exceeding its redemption value.

(2) A trustee may retain until redemption any redeemable stock, fund, or security which may have been purchased in accordance with the powers of this Act, or any statute replaced by this Act.

Discretion of trustees.

3. Every power conferred by the preceding sections shall be exercised according to the discretion of the trustee, but subject to any consent or direction required by the instrument, if any, creating the trust or by statute with respect to the investment of the trust funds.

Power to retain investment which has ceased to be authorised.

4. A trustee shall not be liable for breach of trust by reason only of his continuing to hold an investment which has ceased to be an investment authorised by the trust instrument or by the general law.

Enlargement of powers of investment.

5.—(1) A trustee having power to invest in real securities may invest and shall be deemed always to have had power to invest—

(*a*) on mortgage of property held for an unexpired term of not less than two hundred years, and

not subject to a reservation of rent greater than a shilling a year, or to any right of redemption or to any condition for re-entry, except for non-payment of rent; and

(*b*) on any charge, or upon mortgage of any charge, made under the Improvement of Land Act, 1864. 27 & 28 Vict. c. 114.

(2) A trustee having power to invest in real securities may accept the security in the form of a charge by way of legal mortgage, and may, in exercise of the statutory power, convert an existing mortgage into a charge by way of legal mortgage.

(3) A trustee having power to invest in the mortgages or bonds of any railway company or of any other description of company may invest in the debenture stock of a railway company or such other company as aforesaid.

(4) A trustee having power to invest money in the debentures or debenture stock of any railway or other company may invest in any nominal debentures or nominal debenture stock issued under the Local Loans Act, 1875. 38 & 39 Vict. c. 83.

(5) A trustee having power to invest money in securities in the Isle of Man, or in securities of the government of a colony, may invest in any securities of the Government of the Isle of Man, under the Isle of Man Loans Act, 1880. 43 & 44 Vict. c. 8.

(6) A trustee having a general power to invest trust money in or upon the security of shares, stock, mortgages, bonds, or debentures of companies incorporated by or acting under the authority of an Act of Parliament, may invest in, or upon the security of, mortgage debentures duly issued under and in accordance with the provisions of the Mortgage Debenture Act, 1865. 28 & 29 Vict. c. 78.

Power to invest in land subject to drainage charges. 10 & 11 Vict. c. 32.

6. A trustee having power to invest in the purchase of land or on mortgage of land may invest in the purchase or on mortgage of any land notwithstanding the same is charged with a rent under the powers of the Public Money Drainage Acts, 1846 to 1856, or the Landed Property Improvement (Ireland) Act, 1847, or by an absolute order made under the Improvement of Land Act, 1864, unless the terms of the trust expressly provide that the land to be purchased or taken in mortgage shall not be subject to any such prior charge.

Investment in bearer securities.

7.—(1) A trustee may, unless expressly prohibited by the instrument creating the trust, retain or invest in securities payable to bearer which, if not so payable, would have been authorised investments:

Provided that securities to bearer retained or taken as an investment by a trustee (not being a trust corporation) shall, until sold, be deposited by him for safe custody and collection of income with a banker or banking company.

A direction that investments shall be retained or made in the name of a trustee shall not, for the purposes of this subsection, be deemed to be such an express prohibition as aforesaid.

(2) A trustee shall not be responsible for any loss incurred by reason of such deposit, and any sum payable in respect of such deposit and collection shall be paid out of the income of the trust property.

Loans and investments by trustees not chargeable as breaches of trust.

8.—(1) A trustee lending money on the security of any property on which he can properly lend shall not be chargeable with breach of trust by reason only of the proportion borne by the amount of the loan to the value of the property at the time when the loan was made, if it appears to the court—

(*a*) that in making the loan the trustee was acting upon a report as to the value of the property made by a person whom he reasonably believed to be an able practical surveyor or valuer instructed and employed independently of any owner of the property, whether such surveyor or valuer carried on business in the locality where the property is situate or elsewhere; and

(*b*) that the amount of the loan does not exceed two third parts of the value of the property as stated in the report; and

(*c*) that the loan was made under the advice of the surveyor or valuer expressed in the report.

(2) A trustee lending money on the security of any leasehold property shall not be chargeable with breach of trust only upon the ground that in making such loan he dispensed either wholly or partly with the production or investigation of the lessor's title.

(3) A trustee shall not be chargeable with breach of trust only upon the ground that in effecting the purchase, or in lending money upon the security, of any property he has accepted a shorter title than the title which a purchaser is, in the absence of a special contract, entitled to require, if in the opinion of the court the title accepted be such as a person acting with prudence and caution would have accepted.

(4) This section applies to transfers of existing securities as well as to new securities and to investments made before as well as after the commencement of this Act.

Liability for loss by reason of improper investment.

9.—(1) Where a trustee improperly advances trust money on a mortgage security which would at the time of the investment be a proper investment in all respects for a smaller sum than is actually advanced thereon, the security shall be deemed an authorised investment for the smaller sum, and the trustee shall only be liable to make good the sum advanced in excess thereof with interest.

(2) This section applies to investments made before as well as after the commencement of this Act.

Powers supplementary to powers of investment.

10.—(1) Trustees lending money on the security of any property on which they can lawfully lend may contract that such money shall not be called in during any period not exceeding seven years from the time when the loan was made, provided interest be paid within a specified time not exceeding thirty days after every half-yearly or other day on which it becomes due, and provided there be no breach of any covenant by the mortgagor contained in the instrument of mortgage or charge for the maintenance and protection of the property.

(2) On a sale of land for an estate in fee simple or for a term having at least five hundred years to run by trustees or by a tenant for life or statutory owner, the trustees, or the tenant for life or statutory owner on behalf of the trustees of the settlement, may, where the proceeds are liable to be invested, contract that the payment of any part, not exceeding two-thirds, of the purchase money shall be secured by a charge by way of legal mortgage or a mortgage by demise or subdemise for a term of at least five hundred years (less a nominal reversion when by sub-demise), of the land sold, with or

without the security of any other property, such charge or mortgage, if any buildings are comprised in the mortgage, to contain a covenant by the mortgagor to keep them insured against loss or damage by fire to the full value thereof.

The trustees shall not be bound to obtain any report as to the value of the land or other property to be comprised in such charge or mortgage, or any advice as to the making of the loan, and shall not be liable for any loss which may be incurred by reason only of the security being insufficient at the date of the charge or mortgage; and the trustees of the settlement shall be bound to give effect to such contract made by the tenant for life or statutory owner.

(3) Where any securities of a company are subject to a trust, the trustees may concur in any scheme or arrangement—

(*a*) for the reconstruction of the company;

(*b*) for the sale of all or any part of the property and undertaking of the company to another company;

(*c*) for the amalgamation of the company with another company;

(*d*) for the release, modification, or variation of any rights, privileges or liabilities attached to the securities or any of them;

in like manner as if they were entitled to such securities beneficially, with power to accept any securities of any denomination or description of the reconstructed or purchasing or new company in lieu of or in exchange for all or any of the first-mentioned securities; and the trustees shall not be responsible for any loss occasioned by any act or thing so done in good faith, and may retain any securities so accepted as aforesaid for any period for which they could have properly retained the original securities.

(4) If any conditional or preferential right to subscribe for any securities in any company is offered to trustees in respect of any holding in such company, they may as to all or any of such securities, either exercise such right and apply capital money subject to the trust in payment of the consideration, or renounce such right, or assign for the best consideration that can be reasonably obtained the benefit of such right or the title thereto to

any person, including any beneficiary under the trust, without being responsible for any loss occasioned by any act or thing so done by them in good faith:

Provided that the consideration for any such assignment shall be held as capital money of the trust.

(5) The powers conferred by this section shall be exercisable subject to the consent of any person whose consent to a change of investment is required by law or by the instrument, if any, creating the trust.

(6) Where the loan referred to in subsection (1), or the sale referred to in subsection (2), of this section is made under the order of the court, the powers conferred by those subsections respectively shall apply only if and as far as the court may by order direct.

Power to deposit money at bank and to pay calls.

11.—(1) Trustees may, pending the negotiation and preparation of any mortgage or charge, or during any other time while an investment is being sought for, pay any trust money into a bank to a deposit or other account, and all interest, if any, payable in respect thereof shall be applied as income.

(2) Trustees may apply capital money subject to a trust in payment of the calls on any shares subject to the same trust.

PART II.

GENERAL POWERS OF TRUSTEES AND PERSONAL REPRESENTATIVES.

General Powers.

Power of trustees for sale to sell by auction, &c.

12.—(1) Where a trust for sale or a power of sale of property is vested in a trustee, he may sell or concur with any other person in selling all or any part of the property, either subject to prior charges or not, and either together or in lots, by public auction or by private contract, subject to any such conditions respecting title or evidence of title or other matter as the trustee thinks fit, with power to vary any contract for sale, and to buy in at any auction, or to rescind any contract for sale and to re-sell, without being answerable for any loss.

(2) A trust or power to sell or dispose of land includes a trust or power to sell or dispose of part thereof, whether the division is horizontal, vertical, or made in any other way.

For power to postpone sale see L. P. Act 1925 s. 25 post p. 578

(3) This section does not enable an express power to sell settled land to be exercised where the power is not vested in the tenant for life or statutory owner.

Power to sell subject to depreciatory conditions.

13.—(1) No sale made by a trustee shall be impeached by any beneficiary upon the ground that any of the conditions subject to which the sale was made may have been unnecessarily depreciatory, unless it also appears that the consideration for the sale was thereby rendered inadequate.

and for powers of management pending sale see ibid. s. 28 post p. 580

(2) No sale made by a trustee shall, after the execution of the conveyance, be impeached as against the purchaser upon the ground that any of the conditions subject to which the sale was made may have been unnecessarily depreciatory, unless it appears that the purchaser was acting in collusion with the trustee at the time when the contract for sale was made.

(3) No purchaser, upon any sale made by a trustee, shall be at liberty to make any objection against the title upon any of the grounds aforesaid.

(4) This section applies to sales made before or after the commencement of this Act.

Power of trustees to give receipts.

14.—(1) The receipt in writing of a trustee for any money, securities, or other personal property or effects payable, transferable, or deliverable to him under any trust or power shall be a sufficient discharge to the person paying, transferring, or delivering the same and shall effectually exonerate him from seeing to the application or being answerable for any loss or misapplication thereof.

amended by L. P. (Amendment) Act 1926 s. 7 and Sched.

(2) This section does not, except where the trustee is a trust corporation, enable a sole trustee to give a valid receipt for—

(*a*) the proceeds of sale or other capital money arising under a ~~disposition on~~ trust for sale of land;

15 Geo. 5. c. 18.

(*b*) capital money arising under the Settled Land Act, 1925.

Compare Settled Land Act 1925 s. 94

(3) This section applies notwithstanding anything to the contrary in the instrument, if any, creating the trust.

Power to compound liabilities.

15. A personal representative, or two or more trustees acting together, or, subject to the restrictions imposed in regard to receipts by a sole trustee not being a trust corporation, a sole acting trustee where by the instrument, if any, creating the trust, or by statute, a sole trustee is authorised to execute the trusts and powers reposed in him, may, if and as he or they think fit—

(*a*) accept any property, real or personal, before the time at which it is made transferable or payable; or

(*b*) sever and apportion any blended trust funds or property; or

(*c*) pay or allow any debt or claim on any evidence that he or they think sufficient; or

(*d*) accept any composition or any security, real or personal, for any debt or for any property, real or personal, claimed; or

(*e*) allow any time of payment of any debt; or

(*f*) compromise, compound, abandon, submit to arbitration, or otherwise settle any debt, account, claim, or thing whatever relating to the testator's or intestate's estate or to the trust;

and for any of those purposes may enter into, give, execute, and do such agreements, instruments of composition or arrangement, releases, and other things as to him or them seem expedient, without being responsible for any loss occasioned by any act or thing so done by him or them in good faith.

Power to raise money by sale, mortgage, &c.

16.—(1) Where trustees are authorised by the instrument, if any, creating the trust or by law to pay or apply capital money subject to the trust for any purpose or in any manner, they shall have and shall be deemed always to have had power to raise the money required by sale, conversion, calling in, or mortgage of all or any part of the trust property for the time being in possession.

(2) This section applies notwithstanding anything to the contrary contained in the instrument, if any, creating the trust, but does not apply to trustees of property held for charitable purposes, or to trustees of a settlement for the purposes of the Settled Land Act, 1925, not being also the statutory owners.

Protection to purchasers and mortgagees dealing with trustees.

17. No purchaser or mortgagee, paying or advancing money on a sale or mortgage purporting to be made under any trust or power vested in trustees, shall be concerned to see that such money is wanted, or that no more than is wanted is raised, or otherwise as to the application thereof.

Devolution of powers or trusts.

18.—(1) Where a power or trust is given to or imposed on two or more trustees jointly, the same may be exercised or performed by the survivors or survivor of them for the time being.

(2) Until the appointment of new trustees, the personal representatives or representative for the time being of a sole trustee, or, where there were two or more trustees of the last surviving or continuing trustee, shall be capable of exercising or performing any power or trust which was given to, or capable of being exercised by, the sole or last surviving or continuing trustee, or other the trustees or trustee for the time being of the trust.

(3) This section takes effect subject to the restrictions imposed in regard to receipts by a sole trustee, not being a trust corporation.

(4) In this section "personal representative" does not include an executor who has renounced or has not proved.

Power to insure.

19.—(1) A trustee may insure against loss or damage by fire any building or other insurable property to any amount, including the amount of any insurance already on foot, not exceeding three fourth parts of the full value of the building or property, and pay the premiums for such insurance out of the income thereof or out of the income of any other property subject to the same trusts without obtaining the consent of any person who may be entitled wholly or partly to such income.

(2) This section does not apply to any building or property which a trustee is bound forthwith to convey absolutely to any beneficiary upon being requested to do so.

Application of insurance money where policy

20.—(1) Money receivable by trustees or any beneficiary under a policy of insurance against the loss or damage of any property subject to a trust or to a

settlement within the meaning of the Settled Land Act, 1925, whether by fire or otherwise, shall, where the policy has been kept up under any trust in that behalf or under any power statutory or otherwise, or in performance of any covenant or of any obligation statutory or otherwise, or by a tenant for life impeachable for waste, be capital money for the purposes of the trust or settlement, as the case may be. kept up under any trust, power or obligation.

(2) If any such money is receivable by any person, other than the trustees of the trust or settlement, that person shall use his best endeavours to recover and receive the money, and shall pay the net residue thereof, after discharging any costs of recovering and receiving it, to the trustees of the trust or settlement, or, if there are no trustees capable of giving a discharge therefor, into court.

(3) Any such money—

(*a*) if it was receivable in respect of settled land within the meaning of the Settled Land Act, 1925, or any building or works thereon, shall be deemed to be capital money arising under that Act from the settled land, and shall be invested or applied by the trustees, or, if in court, under the direction of the court, accordingly;

(*b*) if it was receivable in respect of personal chattels settled as heirlooms within the meaning of the Settled Land Act, 1925, shall be deemed to be capital money arising under that Act, and shall be applicable by the trustees, or, if in court, under the direction of the court, in like manner as provided by that Act with respect to money arising by a sale of chattels settled as heirlooms as aforesaid;

(*c*) if it was receivable in respect of property held upon trust for sale, shall be held upon the trusts and subject to the powers and provisions applicable to money arising by a sale under such trust;

(*d*) in any other case, shall be held upon trusts corresponding as nearly as may be with the trusts affecting the property in respect of which it was payable.

(4) Such money, or any part thereof, may also be applied by the trustees, or, if in court, under the direction of the court, in rebuilding, reinstating, replacing, or repairing the property lost or damaged, but any such application by the trustees shall be subject to the consent of any person whose consent is required by the instrument, if any, creating the trust to the investment of money subject to the trust, and, in the case of money which is deemed to be capital money arising under the Settled Land Act, 1925, be subject to the provisions of that Act with respect to the application of capital money by the trustees of the settlement.

(5) Nothing contained in this section prejudices or affects the right of any person to require any such money or any part thereof to be applied in rebuilding, reinstating, or repairing the property lost or damaged, or the rights of any mortgagee, lessor, or lessee, whether under any statute or otherwise.

(6) This section applies to policies effected either before or after the commencement of this Act, but only to money received after such commencement.

Deposit of documents for safe custody.

21. Trustees may deposit any documents held by them relating to the trust, or to the trust property, with any banker or banking company or any other company whose business includes the undertaking of the safe custody of documents, and any sum payable in respect of such deposit shall be paid out of the income of the trust property.

Reversionary interests, valuations, and audit.

22.—(1) Where trust property includes any share or interest in property not vested in the trustees, or the proceeds of the sale of any such property, or any other thing in action, the trustees on the same falling into possession, or becoming payable or transferable may—

(*a*) agree or ascertain the amount or value thereof or any part thereof in such manner as they may think fit;

(*b*) accept in or towards satisfaction thereof, at the market or current value, or upon any valuation or estimate of value which they may think fit, any authorised investments;

(*c*) allow any deductions for duties, costs, charges and expenses which they may think proper or reasonable;

(*d*) execute any release in respect of the premises so as effectually to discharge all accountable parties from all liability in respect of any matters coming within the scope of such release;

without being responsible in any such case for any loss occasioned by any act or thing so done by them in good faith.

(2) The trustees shall not be under any obligation and shall not be chargeable with any breach of trust by reason of any omission—

(*a*) to place any distringas notice or apply for any stop or other like order upon any securities or other property out of or on which such share or interest or other thing in action as aforesaid is derived, payable or charged; or

(*b*) to take any proceedings on account of any act, default, or neglect on the part of the persons in whom such securities or other property or any of them or any part thereof are for the time being, or had at any time been, vested;

unless and until required in writing so to do by some person, or the guardian of some person, beneficially interested under the trust, and unless also due provision is made to their satisfaction for payment of the costs of any proceedings required to be taken:

Provided that nothing in this subsection shall relieve the trustees of the obligation to get in and obtain payment or transfer of such share or interest or other thing in action on the same falling into possession.

(3) Trustees may, for the purpose of giving effect to the trust, or any of the provisions of the instrument, if any, creating the trust or of any statute, from time to time (by duly qualified agents) ascertain and fix the value of any trust property in such manner as they think proper, and any valuation so made in good faith shall be binding upon all persons interested under the trust.

(4) Trustees may, in their absolute discretion, from time to time, but not more than once in every three years unless the nature of the trust or any special dealings with the trust property make a more frequent exercise of the right reasonable, cause the accounts of the

trust property to be examined or audited by an independent accountant, and shall, for that purpose, produce such vouchers and give such information to him as he may require; and the costs of such examination or audit, including the fee of the auditor, shall be paid out of the capital or income of the trust property, or partly in one way and partly in the other, as the trustees, in their absolute discretion, think fit, but, in default of any direction by the trustees to the contrary in any special case, costs attributable to capital shall be borne by capital and those attributable to income by income.

Power to employ agents.

23.—(1) Trustees or personal representatives may, instead of acting personally, employ and pay an agent, whether a solicitor, banker, stockbroker, or other person, to transact any business or do any act required to be transacted or done in the execution of the trust, or the administration of the testator's or intestate's estate, including the receipt and payment of money, and shall be entitled to be allowed and paid all charges and expenses so incurred, and shall not be responsible for the default of any such agent if employed in good faith.

(2) Trustees or personal representatives may appoint any person to act as their agent or attorney for the purpose of selling, converting, collecting, getting in, and executing and perfecting insurances of, or managing or cultivating, or otherwise administering any property, real or personal, moveable or immoveable, subject to the trust or forming part of the testator's or intestate's estate, in any place outside the United Kingdom or executing or exercising any discretion or trust or power vested in them in relation to any such property, with such ancillary powers, and with and subject to such provisions and restrictions as they may think fit, including a power to appoint substitutes, and shall not, by reason only of their having made such appointment, be responsible for any loss arising thereby.

(3) Without prejudice to such general power of appointing agents as aforesaid—

(*a*) A trustee may appoint a solicitor to be his agent to receive and give a discharge for any money or valuable consideration or property receivable by the trustee under the trust, by permitting the solicitor to have the custody

of, and to produce, a deed having in the body thereof or endorsed thereon a receipt for such money or valuable consideration or property, the deed being executed, or the endorsed receipt being signed, by the person entitled to give a receipt for that consideration;

(*b*) A trustee shall not be chargeable with breach of trust by reason only of his having made or concurred in making any such appointment; and the production of any such deed by the solicitor shall have the same statutory validity and effect as if the person appointing the solicitor had not been a trustee;

(*c*) A trustee may appoint a banker or solicitor to be his agent to receive and give a discharge for any money payable to the trustee under or by virtue of a policy of insurance, by permitting the banker or solicitor to have the custody of and to produce the policy of insurance with a receipt signed by the trustee, and a trustee shall not be chargeable with a breach of trust by reason only of his having made or concurred in making any such appointment:

Provided that nothing in this subsection shall exempt a trustee from any liability which he would have incurred if this Act and any enactment replaced by this Act had not been passed, in case he permits any such money, valuable consideration, or property to remain in the hands or under the control of the banker or solicitor for a period longer than is reasonably necessary to enable the banker or solicitor, as the case may be, to pay or transfer the same to the trustee.

This subsection applies whether the money or valuable consideration or property was or is received before or after the commencement of this Act.

Power to concur with others.

24. Where an undivided share in the proceeds of sale of land directed to be sold, or in any other property, is subject to a trust, or forms part of the estate of a testator or intestate, the trustees or personal representatives may (without prejudice to the trust for sale affecting the entirety of the land and the powers of the trustees for sale in reference thereto) execute or exercise any trust or power vested in them in relation to such

share in conjunction with the persons entitled to or having power in that behalf over the other share or shares, and notwithstanding that any one or more of the trustees or personal representatives may be entitled to or interested in any such other share, either in his or their own right or in a fiduciary capacity.

Power to delegate trusts during absence abroad.

Amended PO A Act 1971 S.9

25.—(1) A trustee intending to remain out of the United Kingdom for a period exceeding one month may, notwithstanding any rule of law or equity to the contrary, by power of attorney, delegate to any person (including a trust corporation) the execution or exercise during his absence from the United Kingdom of all or any trusts, powers and discretions vested in him as such trustee, either alone or jointly with any other person or persons:

Provided that a person being the only other co-trustee and not being a trust corporation shall not be appointed to be an attorney under this subsection.

(2) The donor of a power of attorney given under this section shall be liable for the acts or defaults of the donee in the same manner as if they were the acts or defaults of the donor.

(3) The power of attorney shall not come into operation unless and until the donor is out of the United Kingdom, and shall be revoked by his return.

amended by L.P. (amendment) Act 1926 s. 7 and Schd.

(4) The power of attorney shall be attested by at least one witness, and shall be filed at the Central Office within ten days after the execution thereof with a statutory declaration by the donor that he intends to remain out of the United Kingdom for a period exceeding one month from the date of such declaration, or from a date therein mentioned.

(5) The execution of any such instrument and statutory declaration shall be verified in such manner as is required by statute in the case of powers of attorney filed at the Central Office.

(6) If the power of attorney confers a power to dispose of or deal with land or a charge registered under the Land Registration Act, 1925, an office copy shall be filed at the land registry.

15 Geo. 5. c. 21.

(7) The statutory declaration aforesaid and a statutory declaration by the donee of the power of

attorney that the power has come into operation and has not been revoked by the return of the donor shall be conclusive evidence of the facts stated in favour of any person dealing with the donee.

(8) In favour of any person dealing with the donee, any act done or instrument executed by the donee shall, notwithstanding that the power has never come into operation or has become revoked by the act of the donor or by his death or otherwise, be as valid and effectual as if the donor were alive and of full capacity, and had himself done such act or executed such instrument, unless such person had actual notice that the power had never come into operation or of the revocation of the power before such act was done or instrument executed.

(9) For the purpose of executing or exercising the trusts or powers delegated to him, the donee may exercise any of the powers conferred on the donor as trustee by statute or by the instrument creating the trust, including power, for the purpose of the transfer of any inscribed stock, himself to delegate to an attorney power to transfer but not including the power of delegation conferred by this section.

(10) The fact that it appears from any power of attorney given under this section, or from any evidence required for the purposes of any such power of attorney or otherwise, that in dealing with any stock the donee of the power is acting in the execution of a trust shall not be deemed for any purpose to affect any person in whose books the stock is inscribed or registered with any notice of the trust.

For trustees powers of management of land during a minority: Ld. S. L. Act 1925 s. 102 ante p. 473

(11) In this section "trustee" includes a tenant for life and a statutory owner.

Indemnities.

Protection against liability in respect of rents and covenants.

26.—(1) Where a personal representative or trustee liable as such for—

(*a*) any rent, covenant, or agreement reserved by or contained in any lease; or

(*b*) any rent, covenant or agreement payable under or contained in any grant made in consideration of a rentcharge; or

(c) any indemnity given in respect of any rent, covenant or agreement referred to in either of the foregoing paragraphs;

satisfies all liabilities under the lease or grant which may have accrued, ~~or~~ and been claimed, up to the date of the conveyance hereinafter mentioned, and, where necessary, sets apart a sufficient fund to answer any future claim that may be made in respect of any fixed and ascertained sum which the lessee or grantee agreed to lay out on the property demised or granted, although the period for laying out the same may not have arrived, then and in any such case the personal representative or trustee may convey the property demised or granted to a purchaser, legatee, devisee, or other person entitled to call for a conveyance thereof and thereafter—

Amended by L.P. (amendment) Act 1926 s. 7 and Sched.

(i) he may distribute the residuary real and personal estate of the deceased testator or intestate, or, as the case may be, the trust estate (other than the fund, if any, set apart as aforesaid) to or amongst the persons entitled thereto, without appropriating any part, or any further part, as the case may be, of the estate of the deceased or of the trust estate to meet any future liability under the said lease or grant;

(ii) notwithstanding such distribution, he shall not be personally liable in respect of any subsequent claim under the said lease or grant.

(2) This section operates without prejudice to the right of the lessor or grantor, or the persons deriving title under the lessor or grantor, to follow the assets of the deceased or the trust property into the hands of the persons amongst whom the same may have been respectively distributed, and applies notwithstanding anything to the contrary in the will or other instrument, if any, creating the trust.

(3) In this section "lease" includes an underlease and an agreement for a lease or underlease and any instrument giving any such indemnity as aforesaid or varying the liabilities under the lease; "grant" applies to a grant whether the rent is created by limitation, grant, reservation, or otherwise, and includes an agreement for a grant and any instrument giving any such

indemnity as aforesaid or varying the liabilities under the grant; "lessee" and "grantee" include persons respectively deriving title under them.

Protection by means of advertisements.

27.—(1) With a view to the conveyance to or distribution among the persons entitled to any real or personal property, the trustees of a settlement or of a disposition on trust for sale or personal representatives, may give notice by advertisement in the Gazette, and in a [daily London newspaper, and also, if the property includes land not situated in London in a daily or weekly] newspaper circulating in the district in which the land is situated, and such other like notices, including notices elsewhere than in England and Wales, as would, in any special case, have been directed by a court of competent jurisdiction in an action for administration, of their intention to make such conveyance or distribution as aforesaid, and requiring any person interested to send to the trustees or personal representatives within the time, not being less than two months, fixed in the notice or, where more than one notice is given, in the last of the notices, particulars of his claim in respect of the property or any part thereof to which the notice relates.

amended by L.P. (amendment) A. 1926, s. 7 and Sched.

(2) At the expiration of the time fixed by the notice the trustees or personal representatives may convey or distribute the property or any part thereof to which the notice relates, to or among the persons entitled thereto, having regard only to the claims, whether formal or not, of which the trustees or personal representatives then had notice and shall not, as respects the property so conveyed or distributed, be liable to any person of whose claim the trustees or personal representatives have not had notice at the time of conveyance or distribution; but nothing in this section—

(*a*) prejudices the right of any person to follow the property, or any property representing the same, into the hands of any person, other than a purchaser, who may have received it; or

(*b*) frees the trustees or personal representatives from any obligation to make searches or obtain official certificates of search similar to those which an intending purchaser would be advised to make or obtain.

(3) This section applies notwithstanding anything to the contrary in the will or other instrument, if any, creating the trust.

Protection in regard to notice.

28. A trustee or personal representative acting for the purposes of more than one trust or estate shall not, in the absence of fraud, be affected by notice of any instrument, matter, fact or thing in relation to any particular trust or estate if he has obtained notice thereof merely by reason of his acting or having acted for the purposes of another trust or estate.

Exoneration of trustees in respect of certain powers of attorney.

29. A trustee acting or paying money in good faith under or in pursuance of any power of attorney shall not be liable for any such act or payment by reason of the fact that at the time of the act or payment the person who gave the power of attorney was subject to any disability or bankrupt or dead, or had done or suffered some act or thing to avoid the power, if this fact was not known to the trustee at the time of his so acting or paying:

Provided that—

(*a*) nothing in this section shall affect the right of any person entitled to the money against the person to whom the payment is made;

(*b*) the person so entitled shall have the same remedy against the person to whom the payment is made as he would have had against the trustee.

Implied indemnity of trustees.

30.—(1) A trustee shall be chargeable only for money and securities actually received by him notwithstanding his signing any receipt for the sake of conformity, and shall be answerable and accountable only for his own acts, receipts, neglects, or defaults, and not for those of any other trustee, nor for any banker, broker, or other person with whom any trust money or securities may be deposited, nor for the insufficiency or deficiency of any securities, nor for any other loss, unless the same happens through his own wilful default.

(2) A trustee may reimburse himself or pay or discharge out of the trust premises all expenses incurred in or about the execution of the trusts or powers.

Maintenance, Advancement and Protective Trusts.

Power to apply income for maintenance and to accumulate surplus income during a minority.

31.—(1) Where any property is held by trustees in trust for any person for any interest whatsoever, whether vested or contingent, then, subject to any prior interests or charges affecting that property—

(i) during the infancy of any such person, if his interest so long continues, the trustees may, at their sole discretion, pay to his parent or guardian, if any, or otherwise apply for or towards his maintenance, education, or benefit, the whole or such part, if any, of the income of that property as may, in all the circumstances, be reasonable, whether or not there is—

(*a*) any other fund applicable to the same purpose; or

(*b*) any person bound by law to provide for his maintenance or education; and

(ii) if such person on attaining the age of twenty-one years has not a vested interest in such income, the trustees shall thenceforth pay the income of that property and of any accretion thereto under subsection (2) of this section to him, until he either attains a vested interest therein or dies, or until failure of his interest:

Provided that, in deciding whether the whole or any part of the income of the property is during a minority to be paid or applied for the purposes aforesaid, the trustees shall have regard to the age of the infant and his requirements and generally to the circumstances of the case, and in particular to what other income, if any, is applicable for the same purposes; and where trustees have notice that the income of more than one fund is applicable for those purposes, then, so far as practicable, unless the entire income of the funds is paid or applied as aforesaid or the court otherwise directs, a proportionate part only of the income of each fund shall be so paid or applied.

(2) During the infancy of any such person, if his interest so long continues, the trustees shall accumulate all the residue of that income in the way of compound interest by investing the same and the resulting income

thereof from time to time in authorised investments, and shall hold those accumulations as follows :—

(i) If any such person—

(*a*) attains the age of twenty-one years, or marries under that age, and his interest in such income during his infancy or until his marriage is a vested interest; or

(*b*) on attaining the age of twenty-one years or on marriage under that age becomes entitled to the property from which such income arose in fee simple, absolute or determinable, or absolutely, or for an entailed interest;

the trustees shall hold the accumulations in trust for such person absolutely, but without prejudice to any provision with respect thereto contained in any settlement by him made under any statutory powers during his infancy, and so that the receipt of such person after marriage, and though still an infant, shall be a good discharge; and

(ii) In any other case the trustees shall, notwithstanding that such person had a vested interest in such income, hold the accumulations as an accretion to the capital of the property from which such accumulations arose, and as one fund with such capital for all purposes, and so that, if such property is settled land, such accumulations shall be held upon the same trusts as if the same were capital money arising therefrom;

but the trustees may, at any time during the infancy of such person if his interest so long continues, apply those accumulations, or any part thereof, as if they were income arising in the then current year.

(3) This section applies in the case of a contingent interest only if the limitation or trust carries the intermediate income of the property, but it applies to a future or contingent legacy by the parent of, or a person standing in loco parentis to, the legatee, if and for such period as, under the general law, the legacy carries interest for the maintenance of the legatee, and in any such case as last aforesaid the rate of interest shall (if the income

available is sufficient, and subject to any rules of court to the contrary) be five pounds per centum per annum.

(4) This section applies to a vested annuity in like manner as if the annuity were the income of property held by trustees in trust to pay the income thereof to the annuitant for the same period for which the annuity is payable, save that in any case accumulations made during the infancy of the annuitant shall be held in trust for the annuitant or his personal representatives absolutely.

(5) This section does not apply where the instrument, if any, under which the interest arises came into operation before the commencement of this Act.

Power of advancement.

32.—(1) Trustees may at any time or times pay or apply any capital money subject to a trust, for the advancement or benefit, in such manner as they may, in their absolute discretion, think fit, of any person entitled to the capital of the trust property or of any share thereof, whether absolutely or contingently on his attaining any specified age or on the occurrence of any other event, or subject to a gift over on his death under any specified age or on the occurrence of any other event, and whether in possession or in remainder or reversion, and such payment or application may be made notwithstanding that the interest of such person is liable to be defeated by the exercise of a power of appointment or revocation, or to be diminished by the increase of the class to which he belongs:

Provided that—

(*a*) the money so paid or applied for the advancement or benefit of any person shall not exceed altogether in amount one-half of the presumptive or vested share or interest of that person in the trust property; and

(*b*) if that person is or becomes absolutely and indefeasibly entitled to a share in the trust property the money so paid or applied shall be brought into account as part of such share; and

(*c*) no such payment or application shall be made so as to prejudice any person entitled to any prior life or other interest, whether vested or contingent, in the money paid or applied

unless such person is in existence and of full age and consents in writing to such payment or application.

(2) This section applies only where the trust property consists of money or securities or of property held upon trust for sale calling in and conversion, and such money or securities, or the proceeds of such sale calling in and conversion are not by statute or in equity considered as land, or applicable as capital money for the purposes of the Settled Land Act, 1925.

(3) This section does not apply to trusts constituted or created before the commencement of this Act.

Protective trusts.

33.—(1) Where any income, including an annuity or other periodical income payment, is directed to be held on protective trusts for the benefit of any person (in this section called "the principal beneficiary") for the period of his life or for any less period, then, during that period (in this section called the "trust period") the said income shall, without prejudice to any prior interest, be held on the following trusts, namely :—

(i) Upon trust for the principal beneficiary during the trust period or until he, whether before or after the termination of any prior interest, does or attempts to do or suffers any act or thing, or until any event happens, other than an advance under any statutory or express power, whereby, if the said income were payable during the trust period to the principal beneficiary absolutely during that period, he would be deprived of the right to receive the same or any part thereof, in any of which cases, as well as on the termination of the trust period, whichever first happens, this trust of the said income shall fail or determine;

(ii) If the trust aforesaid fails or determines during the subsistence of the trust period, then, during the residue of that period, the said income shall be held upon trust for the application thereof for the maintenance or support, or otherwise for the benefit, of all or any one or more exclusively of the other or others of the following persons (that is to say)—

(*a*) the principal beneficiary and his or her wife or husband, if any, and his or her children or more remote issue, if any; or

(*b*) if there is no wife or husband or issue of the principal beneficiary in existence, the principal beneficiary and the persons who would, if he were actually dead, be entitled to the trust property or the income thereof or to the annuity fund, if any, or arrears of the annuity, as the case may be;

as the trustees in their absolute discretion, without being liable to account for the exercise of such discretion, think fit.

(2) This section does not apply to trusts coming into operation before the commencement of this Act, and has effect subject to any variation of the implied trusts aforesaid contained in the instrument creating the trust.

(3) Nothing in this section operates to validate any trust which would, if contained in the instrument creating the trust, be liable to be set aside.

PART III.

APPOINTMENT AND DISCHARGE OF TRUSTEES.

Limitation of the number of trustees.

34.—(1) Where, at the commencement of this Act, there are more than four trustees of a settlement of land, or more than four trustees holding land on trust for sale, no new trustees shall (except where as a result of the appointment the number is reduced to four or less) be capable of being appointed until the number is reduced to less than four, and thereafter the number shall not be increased beyond four.

(2) In the case of settlements and dispositions on trust for sale of land made or coming into operation after the commencement of this Act—

(*a*) the number of trustees thereof shall not in any case exceed four, and where more than four persons are named as such trustees, the four first named (who are able and willing to act) shall alone be the trustees, and the other persons named shall not be trustees unless appointed on the occurrence of a vacancy;

(*b*) the number of the trustees shall not be increased beyond four.

(3) This section only applies to settlements and dispositions of land, and the restrictions imposed on the number of trustees do not apply—

(*a*) in the case of land vested in trustees for charitable, ecclesiastical, or public purposes; or

(*b*) where the net proceeds of the sale of the land are held for like purposes; or

(*c*) to the trustees of a term of years absolute limited by a settlement on trusts for raising money, or of a like term created under the statutory remedies relating to annual sums charged on land.

Appointments of trustees of settlements and dispositions on trust for sale of land.

35.—(1) Appointments of new trustees of conveyances on trust for sale on the one hand and of the settlement of the proceeds of sale on the other hand, shall, subject to any order of the court, be effected by separate instruments, but in such manner as to secure that the same persons shall become the trustees of the conveyance on trust for sale as become the trustees of the settlement of the proceeds of sale.

(2) Where new trustees of a settlement are appointed, a memorandum of the names and addresses of the persons who are for the time being the trustees thereof for the purposes of the Settled Land Act, 1925, shall be endorsed on or annexed to the last or only principal vesting instrument by or on behalf of the trustees of the settlement, and such vesting instrument shall, for that purpose, be produced by the person having the possession thereof to the trustees of the settlement when so required.

(3) Where new trustees of a conveyance on trust for sale relating to a legal estate are appointed, a memorandum of the persons who are for the time being the trustees for sale shall be endorsed on or annexed thereto by or on behalf of the trustees of the settlement of the proceeds of sale, and the conveyance shall, for that purpose, be produced by the person having the possession thereof to the last-mentioned trustees when so required.

(4) This section applies only to settlements and dispositions of land.

Power of appointing new or additional trustees.

36.—(1) Where a trustee, either original or substituted, and whether appointed by a court or otherwise, is dead, or remains out of the United Kingdom for more than twelve months, or desires to be discharged from all or any of the trusts or powers reposed in or conferred on him, or refuses or is unfit to act therein, or is incapable of acting therein, or is an infant, then, subject to the restrictions imposed by this Act on the number of trustees,—

(*a*) the person or persons nominated for the purpose of appointing new trustees by the instrument, if any, creating the trust; or

(*b*) if there is no such person, or no such person able and willing to act, then the surviving or continuing trustees or trustee for the time being, or the personal representatives of the last surviving or continuing trustee;

may, by writing, appoint one or more other persons (whether or not being the persons exercising the power) to be a trustee or trustees in the place of the trustee so deceased remaining out of the United Kingdom, desiring to be discharged, refusing, or being unfit or being incapable, or being an infant, as aforesaid.

(2) Where a trustee has been removed under a power contained in the instrument creating the trust, a new trustee or new trustees may be appointed in the place of the trustee who is removed, as if he were dead, or, in the case of a corporation, as if the corporation desired to be discharged from the trust, and the provisions of this section shall apply accordingly, but subject to the restrictions imposed by this Act on the number of trustees.

(3) Where a corporation being a trustee is or has been dissolved, either before or after the commencement of this Act, then, for the purposes of this section and of any enactment replaced thereby, the corporation shall be deemed to be and to have been from the date of the dissolution incapable of acting in the trusts or powers reposed in or conferred on the corporation.

(4) The power of appointment given by subsection (1) of this section or any similar previous enactment to the personal representatives of a last surviving or

continuing trustee shall be and shall be deemed always to have been exercisable by the executors for the time being (whether original or by representation) of such surviving or continuing trustee who have proved the will of their testator or by the administrators for the time being of such trustee without the concurrence of any executor who has renounced or has not proved.

(5) But a sole or last surviving executor intending to renounce, or all the executors where they all intend to renounce, shall have and shall be deemed always to have had power, at any time before renouncing probate, to exercise the power of appointment given by this section, or by any similar previous enactment, if willing to act for that purpose and without thereby accepting the office of executor.

(6) Where a sole trustee, other than a trust corporation, is or has been originally appointed to act in a trust, or where, in the case of any trust, there are not more than three trustees (none of them being a trust corporation) either original or substituted and whether appointed by the court or otherwise, then and in any such case—

(*a*) the person or persons nominated for the purpose of appointing new trustees by the instrument, if any, creating the trust; or

(*b*) if there is no such person, or no such person able and willing to act, then the trustee or trustees for the time being;

may, by writing, appoint another person or other persons to be an additional trustee or additional trustees, but it shall not be obligatory to appoint any additional trustee, unless the instrument, if any, creating the trust, or any statutory enactment provides to the contrary, nor shall the number of trustees be increased beyond four by virtue of any such appointment.

(7) Every new trustee appointed under this section as well before as after all the trust property becomes by law, or by assurance, or otherwise, vested in him, shall have the same powers, authorities, and discretions, and may in all respects act as if he had been originally appointed a trustee by the instrument, if any, creating the trust.

(8) The provisions of this section relating to a trustee who is dead include the case of a person nominated trustee in a will but dying before the testator, and those relative to a continuing trustee include a refusing or retiring trustee, if willing to act in the execution of the provisions of this section.

(9) Where a lunatic or defective, being a trustee, is also entitled in possession to some beneficial interest in the trust property, no appointment of a new trustee in his place shall be made by the continuing trustees or trustee, under this section, unless leave has been given by the Judge or Master in Lunacy to make the appointment.

Supplemental provisions as to appointment of trustees.

37.—(1) On the appointment of a trustee for the whole or any part of trust property—

(*a*) the number of trustees may, subject to the restrictions imposed by this Act on the number of trustees, be increased; and

(*b*) a separate set of trustees, not exceeding four, may be appointed for any part of the trust property held on trusts distinct from those relating to any other part or parts of the trust property, notwithstanding that no new trustees or trustee are or is to be appointed for other parts of the trust property, and any existing trustee may be appointed or remain one of such separate set of trustees, or, if only one trustee was originally appointed, then, save as hereinafter provided, one separate trustee may be so appointed; and

(*c*) it shall not be obligatory, save as hereinafter provided, to appoint more than one new trustee where only one trustee was originally appointed, or to fill up the original number of trustees where more than two trustees were originally appointed, but, except where only one trustee was originally appointed, and a sole trustee when appointed will be able to give valid receipts for all capital money, a trustee shall not be discharged from his trust unless there will be either a trust corporation or at least two individuals to act as trustees to perform the trust; and

(*d*) any assurance or thing requisite for vesting the trust property, or any part thereof, in a sole trustee, or jointly in the persons who are the trustees, shall be executed or done.

(2) Nothing in this Act shall authorise the appointment of a sole trustee, not being a trust corporation, where the trustee, when appointed, would not be able to give valid receipts for all capital money arising under the trust.

Evidence as to a vacancy in a trust.

38.—(1) A statement, contained in any instrument coming into operation after the commencement of this Act by which a new trustee is appointed for any purpose connected with land, to the effect that a trustee has remained out of the United Kingdom for more than twelve months or refuses or is unfit to act, or is incapable of acting, or that he is not entitled to a beneficial interest in the trust property in possession, shall, in favour of a purchaser of a legal estate, be conclusive evidence of the matter stated.

(2) In favour of such purchaser any appointment of a new trustee depending on that statement, and any vesting declaration, express or implied, consequent on the appointment, shall be valid.

Retirement of trustee without a new appointment.

39.—(1) Where a trustee is desirous of being discharged from the trust, and after his discharge there will be either a trust corporation or at least two individuals to act as trustees to perform the trust, then, if such trustee as aforesaid by deed declares that he is desirous of being discharged from the trust, and if his co-trustees and such other person, if any, as is empowered to appoint trustees, by deed consent to the discharge of the trustee, and to the vesting in the co-trustees alone of the trust property, the trustee desirous of being discharged shall be deemed to have retired from the trust, and shall, by the deed, be discharged therefrom under this Act, without any new trustee being appointed in his place.

(2) Any assurance or thing requisite for vesting the trust property in the continuing trustees alone shall be executed or done.

Vesting of trust property in new or continuing trustees.

40.—(1) Where by a deed a new trustee is appointed to perform any trust, then—

(*a*) if the deed contains a declaration by the appointor to the effect that any estate or

interest in any land subject to the trust, or in any chattel so subject, or the right to recover or receive any debt or other thing in action so subject, shall vest in the persons who by virtue of the deed become or are the trustees for performing the trust, the deed shall operate, without any conveyance or assignment, to vest in those persons as joint tenants and for the purposes of the trust the estate interest or right to which the declaration relates; and

(*b*) if the deed is made after the commencement of this Act and does not contain such a declaration, the deed shall, subject to any express provision to the contrary therein contained, operate as if it had contained such a declaration by the appointor extending to all the estates interests and rights with respect to which a declaration could have been made.

(2) Where by a deed a retiring trustee is discharged under the statutory power without a new trustee being appointed, then—

(*a*) if the deed contains such a declaration as aforesaid by the retiring and continuing trustees, and by the other person, if any, empowered to appoint trustees, the deed shall, without any conveyance or assignment, operate to vest in the continuing trustees alone, as joint tenants, and for the purposes of the trust, the estate, interest, or right to which the declaration relates; and

(*b*) if the deed is made after the commencement of this Act and does not contain such a declaration, the deed shall, subject to any express provision to the contrary therein contained, operate as if it had contained such a declaration by such persons as aforesaid extending to all the estates, interests and rights with respect to which a declaration could have been made.

(3) An express vesting declaration, whether made before or after the commencement of this Act, shall, notwithstanding that the estate, interest or right to be vested is not expressly referred to, and provided that

the other statutory requirements were or are complied with, operate and be deemed always to have operated (but without prejudice to any express provision to the contrary contained in the deed of appointment or discharge) to vest in the persons respectively referred to in subsections (1) and (2) of this section, as the case may require, such estates, interests and rights as are capable of being and ought to be vested in those persons.

(4) This section does not extend—

(*a*) to land conveyed by way of mortgage for securing money subject to the trust, except land conveyed on trust for securing debentures or debenture stock;

(*b*) to land held under a lease which contains any covenant, condition or agreement against assignment or disposing of the land without licence or consent, unless, prior to the execution of the deed containing expressly or impliedly the vesting declaration, the requisite licence or consent has been obtained, or unless, by virtue of any statute or rule of law, the vesting declaration, express or implied, would not operate as a breach of covenant or give rise to a forfeiture;

(*c*) to any share, stock, annuity or property which is only transferable in books kept by a company or other body, or in manner directed by or under an Act of Parliament.

In this subsection "lease" includes an underlease and an agreement for a lease or underlease.

(5) For purposes of registration of the deed in any registry, the person or persons making the declaration expressly or impliedly, shall be deemed the conveying party or parties, and the conveyance shall be deemed to be made by him or them under a power conferred by this Act.

(6) This section applies to deeds of appointment or discharge executed on or after the first day of January, eighteen hundred and eighty-two.

Part IV.

Powers of the Court.

Appointment of new Trustees.

Power of court to appoint new trustees.

41.—(1) The court may, whenever it is expedient to appoint a new trustee or new trustees, and it is found inexpedient difficult or impracticable so to do without the assistance of the court, make an order appointing a new trustee or new trustees either in substitution for or in addition to any existing trustee or trustees, or although there is no existing trustee.

In particular and without prejudice to the generality of the foregoing provision, the court may make an order appointing a new trustee in substitution for a trustee who is convicted of felony, or is a lunatic or a defective, or is a bankrupt, or is a corporation which is in liquidation or has been dissolved.

(2) The power conferred by this section may, in the case of a deed of arrangement within the meaning of the Deeds of Arrangement Act, 1914, be exercised either by the High Court or by the court having jurisdiction in bankruptcy in the district in which the debtor resided or carried on business at the date of the execution of the deed. 4 & 5 Geo. 5. c. 47.

(3) An order under this section, and any consequential vesting order or conveyance, shall not operate further or otherwise as a discharge to any former or continuing trustee than an appointment of new trustees under any power for that purpose contained in any instrument would have operated.

(4) Nothing in this section gives power to appoint an executor or administrator.

Power to authorise remuneration.

42. Where the court appoints a corporation, other than the Public Trustee, to be a trustee either solely or jointly with another person, the court may authorise the corporation to charge such remuneration for its services as trustee as the court may think fit.

Powers of new trustee appointed by the court.

43. Every trustee appointed by a court of competent jurisdiction shall, as well before as after the trust property becomes by law, or by assurance, or otherwise, vested in him, have the same powers, authorities, and discretions,

and may in all respects act as if he had been originally appointed a trustee by the instrument, if any, creating the trust.

Vesting Orders.

Vesting orders of land.

44. In any of the following cases, namely :—

(i) Where the court appoints or has appointed a trustee, or where a trustee has been appointed out of court under any statutory or express power;

(ii) Where a trustee entitled to or possessed of any land or interest therein, whether by way of mortgage or otherwise, or entitled to a contingent right therein, either solely or jointly with any other person—

(*a*) is under disability; or

(*b*) is out of the jurisdiction of the High Court; or

(*c*) cannot be found, or, being a corporation, has been dissolved;

(iii) Where it is uncertain who was the survivor of two or more trustees jointly entitled to or possessed of any interest in land;

(iv) Where it is uncertain whether the last trustee known to have been entitled to or possessed of any interest in land is living or dead;

(v) Where there is no personal representative of a deceased trustee who was entitled to or possessed of any interest in land, or where it is uncertain who is the personal representative of a deceased trustee who was entitled to or possessed of any interest in land;

(vi) Where a trustee jointly or solely entitled to or possessed of any interest in land, or entitled to a contingent right therein, has been required, by or on behalf of a person entitled to require a conveyance of the land or interest or a release of the right, to convey the land or interest or to release the right, and has wilfully refused or neglected to convey the land

or interest or release the right for twenty-eight days after the date of the requirement;

(vii) Where land or any interest therein is vested in a trustee whether by way of mortgage or otherwise, and it appears to the court to be expedient;

the court may make an order (in this Act called a vesting order) vesting the land or interest therein in any such person in any such manner and for any such estate or interest as the court may direct, or releasing or disposing of the contingent right to such person as the court may direct:

Provided that—

(*a*) Where the order is consequential on the appointment of a trustee the land or interest therein shall be vested for such estate as the court may direct in the persons who on the appointment are the trustees; and

(*b*) Where the order relates to a trustee entitled or formerly entitled jointly with another person, and such trustee is under disability or out of the jurisdiction of the High Court or cannot be found, or being a corporation has been dissolved, the land interest or right shall be vested in such other person who remains entitled, either alone or with any other person the court may appoint.

Orders as to contingent rights of unborn persons.

45. Where any interest in land is subject to a contingent right in an unborn person or class of unborn persons who, on coming into existence would, in respect thereof, become entitled to or possessed of that interest on any trust, the court may make an order releasing the land or interest therein from the contingent right, or may make an order vesting in any person the estate or interest to or of which the unborn person or class of unborn persons would, on coming into existence, be entitled or possessed in the land.

Vesting order in place of conveyance by infant mortgagee.

46. Where any person entitled to or possessed of any interest in land, or entitled to a contingent right in land, by way of security for money, is an infant, the

court may make an order vesting or releasing or disposing of the interest in the land or the right in like manner as in the case of a trustee under disability.

Vesting order consequential on order for sale or mortgage of land.

47. Where any court gives a judgment or makes an order directing the sale or mortgage of any land, every person who is entitled to or possessed of any interest in the land, or entitled to a contingent right therein, and is a party to the action or proceeding in which the judgment or order is given or made or is otherwise bound by the judgment or order, shall be deemed to be so entitled or possessed, as the case may be, as a trustee for the purposes of this Act, and the court may, if it thinks expedient, make an order vesting the land or any part thereof for such estate or interest as that court thinks fit in the purchaser or mortgagee or in any other person:

Provided that, in the case of a legal mortgage, the estate to be vested in the mortgagee shall be a term of years absolute.

Vesting order consequential on judgment for specific performance, &c.

48. Where a judgment is given for the specific performance of a contract concerning any interest in land, or for sale or exchange of any interest in land, or generally where any judgment is given for the conveyance of any interest in land either in cases arising out of the doctrine of election or otherwise, the court may declare—

(*a*) that any of the parties to the action are trustees of any interest in the land or any part thereof within the meaning of this Act; or

(*b*) that the interests of unborn persons who might claim under any party to the action, or under the will or voluntary settlement of any deceased person who was during his lifetime a party to the contract or transaction concerning which the judgment is given, are the interests of persons who, on coming into existence, would be trustees within the meaning of this Act;

and thereupon the court may make a vesting order relating to the rights of those persons, born and unborn, as if they had been trustees.

Effect of vesting order.

49. A vesting order under any of the foregoing provisions shall in the case of a vesting order consequential on the appointment of a trustee, have the same effect—

(*a*) as if the persons who before the appointment were the trustees, if any, had duly executed all proper conveyances of the land for such estate or interest as the court directs; or

(*b*) if there is no such person, or no such person of full capacity, as if such person had existed and been of full capacity and had duly executed all proper conveyances of the land for such estate or interest as the court directs;

and shall in every other case have the same effect as if the trustee or other person or description or class of persons to whose rights or supposed rights the said provisions respectively relate had been an ascertained and existing person of full capacity, and had executed a conveyance or release to the effect intended by the order.

Power to appoint person to convey.

50. In all cases where a vesting order can be made under any of the foregoing provisions, the court may, if it is more convenient, appoint a person to convey the land or any interest therein or release the contingent right, and a conveyance or release by that person in conformity with the order shall have the same effect as an order under the appropriate provision.

Vesting orders as to stock and things in action.

51.—(1) In any of the following cases, namely:—

(i) Where the court appoints or has appointed a trustee, or where a trustee has been appointed out of court under any statutory or express power;

(ii) Where a trustee entitled, whether by way of mortgage or otherwise, alone or jointly with another person to stock or to a thing in action—

(*a*) is under disability; or

(*b*) is out of the jurisdiction of the High Court; or

(*c*) cannot be found, or, being a corporation, has been dissolved; or

(*d*) neglects or refuses to transfer stock or receive the dividends or income thereof, or to sue for or recover a thing in action, according to the direction of the person absolutely entitled thereto for twenty-eight days next after a request in writing has been made to him by the person so entitled; or

(*e*) neglects or refuses to transfer stock or receive the dividends or income thereof, or to sue for or recover a thing in action for twenty-eight days next after an order of the court for that purpose has been served on him;

(iii) Where it is uncertain whether a trustee entitled alone or jointly with another person to stock or to a thing in action is alive or dead;

(iv) Where stock is standing in the name of a deceased person whose personal representative is under disability;

(v) Where stock or a thing in action is vested in a trustee whether by way of mortgage or otherwise and it appears to the court to be expedient;

the court may make an order vesting the right to transfer or call for a transfer of stock, or to receive the dividends or income thereof, or to sue for or recover the thing in action, in any such person as the court may appoint:

Provided that—

(*a*) Where the order is consequential on the appointment of a trustee, the right shall be vested in the persons who, on the appointment, are the trustees; and

(*b*) Where the person whose right is dealt with by the order was entitled jointly with another person, the right shall be vested in that last-mentioned person either alone or jointly with any other person whom the court may appoint.

(2) In all cases where a vesting order can be made under this section, the court may, if it is more convenient, appoint some proper person to make or join in making the transfer:

Provided that the person appointed to make or join in making a transfer of stock shall be some proper officer of the bank, or the company or society whose stock is to be transferred.

(3) The person in whom the right to transfer or call for the transfer of any stock is vested by an order of the court under this Act, may transfer the stock to himself or any other person, according to the order, and the Bank of England and all other companies shall obey every order under this section according to its tenor.

(4) After notice in writing of an order under this section it shall not be lawful for the Bank of England or any other company to transfer any stock to which the order relates or to pay any dividends thereon except in accordance with the order.

(5) The court may make declarations and give directions concerning the manner in which the right to transfer any stock or thing in action vested under the provisions of this Act is to be exercised.

(6) The provisions of this Act as to vesting orders shall apply to shares in ships registered under the Acts relating to merchant shipping as if they were stock.

Vesting orders of charity property.

52. The powers conferred by this Act as to vesting orders may be exercised for vesting any interest in land, stock, or thing in action in any trustee of a charity or society over which the court would have jurisdiction upon action duly instituted, whether the appointment of the trustee was made by instrument under a power or by the court under its general or statutory jurisdiction.

Vesting orders in relation to infant's beneficial interests.

53. Where an infant is beneficially entitled to any property the court may, with a view to the application of the capital or income thereof for the maintenance, education, or benefit of the infant, make an order—

(*a*) appointing a person to convey such property; or

(*b*) in the case of stock, or a thing in action, vesting in any person the right to transfer or call for a transfer of such stock, or to receive the dividends or income thereof, or to sue for and recover such thing in action, upon such terms as the court may think fit.

Jurisdiction of the High Court in regard to lunatics.

See Trustee Act (Jurisdiction in Lunacy) Rules 1925 / 1926 W.N. 26

54. Where the High Court has power under this Part of this Act to make orders in relation to lunatics and defectives who are trustees, the Judge or Master in Lunacy shall, save as provided in this section, have no power to make such an order :

Provided that where—

(*a*) a lunatic or defective has become a trustee of mortgaged property merely by reason of the mortgage having been paid off;

(*b*) an order in lunacy is made authorising the exercise of a power to appoint a trustee;

(*c*) an order in lunacy is made for giving effect to a contract made before the lunatic or defective was under disability;

(*d*) a lunatic or defective is beneficially entitled to some interest in the property but holds the property or some interest therein under an express, implied or constructive trust;

the High Court and the Judge or Master in Lunacy shall, in accordance with rules to be made by the Lord Chancellor, have concurrent jurisdiction.

Orders made upon certain allegations to be conclusive evidence. 53 & 54 Vict. c. 5.

55. Where a vesting order is made as to any land under this Act or under the Lunacy Act, 1890, as amended by any subsequent enactment, or under any Act relating to lunacy in Northern Ireland, founded on an allegation of any of the following matters namely—

(*a*) the personal incapacity of a trustee or mortgagee; or

(*b*) that a trustee or mortgagee or the personal representative of or other person deriving title under a trustee or mortgagee is out of the jurisdiction of the High Court or cannot be found, or being a corporation has been dissolved; or

(*c*) that it is uncertain which of two or more trustees, or which of two or more persons interested in a mortgage, was the survivor; or

(*d*) that it is uncertain whether the last trustee or the personal representative of or other person deriving title under a trustee or mortgagee, or the last surviving person interested in a mortgage is living or dead; or

(*e*) that any trustee or mortgagee has died intestate without leaving a person beneficially interested under the intestacy or has died and it is not known who is his personal representative or the person interested;

the fact that the order has been so made shall be conclusive evidence of the matter so alleged in any court upon any question as to the validity of the order; but this section does not prevent the court from directing a reconveyance or surrender or the payment of costs occasioned by any such order if improperly obtained.

Application of vesting order to property out of England.

56. The powers of the court to make vesting orders under this Act shall extend to all property in any part of His Majesty's dominions except Scotland.

Jurisdiction to make other Orders.

Power of court to authorise dealings with trust property.

57.—(1) Where in the management or administration of any property vested in trustees, any sale, lease, mortgage, surrender, release, or other disposition, or any purchase, investment, acquisition, expenditure, or other transaction, is in the opinion of the court expedient, but the same cannot be effected by reason of the absence of any power for that purpose vested in the trustees by the trust instrument, if any, or by law, the court may by order confer upon the trustees, either generally or in any particular instance, the necessary power for the purpose, on such terms, and subject to such provisions and conditions, if any, as the court may think fit and may direct in what manner any money authorised to be expended, and the costs of any transaction, are to be paid or borne as between capital and income.

(2) The court may, from time to time, rescind or vary any order made under this section, or may make any new or further order.

(3) An application to the court under this section may be made by the trustees, or by any of them, or by any person beneficially interested under the trust.

(4) This section does not apply to trustees of a settlement for the purposes of the Settled Land Act, 1925.

Persons entitled to apply for orders.

58.—(1) An order under this Act for the appointment of a new trustee or concerning any interest in land, stock, or thing in action subject to a trust, may be made on the application of any person beneficially interested in the land, stock, or thing in action, whether under disability or not, or on the application of any person duly appointed trustee thereof.

(2) An order under this Act concerning any interest in land, stock, or thing in action subject to a mortgage may be made on the application of any person beneficially interested in the equity of redemption, whether under disability or not, or of any person interested in the money secured by the mortgage.

Power to give judgment in absence of a trustee.

59. Where in any action the court is satisfied that diligent search has been made for any person who, in the character of trustee, is made a defendant in any action, to serve him with a process of the court, and that he cannot be found, the court may hear and determine the action and give judgment therein against that person in his character of a trustee as if he had been duly served, or had entered an appearance in the action, and had also appeared by his counsel and solicitor at the hearing, but without prejudice to any interest he may have in the matters in question in the action in any other character.

Power to charge costs on trust estate.

60. The court may order the costs and expenses of and incident to any application for an order appointing a new trustee, or for a vesting order, or of and incident to any such order, or any conveyance or transfer in pursuance thereof, to be raised and paid out of the property in respect whereof the same is made, or out of the income thereof, or to be borne and paid in such manner and by such persons as to the court may seem just.

Power to relieve trustee from personal liability.

61. If it appears to the court that a trustee, whether appointed by the court or otherwise, is or may be personally liable for any breach of trust, whether the transaction alleged to be a breach of trust occurred before or after the commencement of this Act, but has acted honestly and reasonably, and ought fairly to be excused for the breach of trust and for omitting to obtain the directions of the court in the matter in which he committed such breach, then the court may relieve him

either wholly or partly from personal liability for the same.

Power to make beneficiary indemnify for breach of trust.

62.—(1) Where a trustee commits a breach of trust at the instigation or request or with the consent in writing of a beneficiary, the court may, if it thinks fit, and notwithstanding that the beneficiary may be a married woman restrained from anticipation, make such order as to the court seems just, for impounding all or any part of the interest of the beneficiary in the trust estate by way of indemnity to the trustee or persons claiming through him.

(2) This section applies to breaches of trust committed as well before as after the commencement of this Act.

Payment into Court.

Payment into court by trustees.

63.—(1) Trustees, or the majority of trustees, having in their hands or under their control money or securities belonging to a trust, may pay the same into court; and the same shall, subject to rules of court, be dealt with according to the orders of the court.

(2) The receipt or certificate of the proper officer shall be a sufficient discharge to trustees for the money or securities so paid into court.

(3) Where money or securities are vested in any persons as trustees, and the majority are desirous of paying the same into court, but the concurrence of the other or others cannot be obtained, the court may order the payment into court to be made by the majority without the concurrence of the other or others.

(4) Where any such money or securities are deposited with any banker, broker, or other depositary, the court may order payment or delivery of the money or securities to the majority of the trustees for the purpose of payment into court.

(5) Every transfer payment and delivery made in pursuance of any such order shall be valid and take effect as if the same had been made on the authority or by the act of all the persons entitled to the money and securities so transferred, paid, or delivered.

PART V.

GENERAL PROVISIONS.

Application of Act to Settled Land Act Trustees.

64.—(1) All the powers and provisions contained in this Act with reference to the appointment of new trustees, and the discharge and retirement of trustees, apply to and include trustees for the purposes of the Settled Land Act, 1925, and trustees for the purpose of the management of land during a minority, whether such trustees are appointed by the court or by the settlement, or under provisions contained in any instrument.

(2) Where, either before or after the commencement of this Act, trustees of a settlement have been appointed by the court for the purposes of the Settled Land Acts, 1882 to 1890, or of the Settled Land Act, 1925, then, after the commencement of this Act—

(*a*) the person or persons nominated for the purpose of appointing new trustees by the instrument, if any, creating the settlement, though no trustees for the purposes of the said Acts were thereby appointed; or

(*b*) if there is no such person, or no such person able and willing to act, the surviving or continuing trustees or trustee for the time being for the purposes of the said Acts, or the personal representatives of the last surviving or continuing trustee for those purposes,

shall have the powers conferred by this Act to appoint new or additional trustees of the settlement for the purposes of the said Acts.

(3) Appointments of new trustees for the purposes of the said Acts made or expressed to be made before the commencement of this Act by the trustees or trustee or personal representatives referred to in paragraph (*b*) of the last preceding subsection or by the persons referred to in paragraph (*a*) of that subsection are, without prejudice to any order of the court made before such commencement, hereby confirmed.

Trust estates not affected by trustee

65. Property vested in any person on any trust or by way of mortgage shall not, in case of that person becoming a convict within the meaning of the Forfeiture

Act, 1870, vest in any such administrator as may be appointed under that Act, but shall remain in the trustee or mortgagee, or pass to his co-trustee in right of survivorship or devolve on his personal representative as if he had not become a convict:

becoming a convict. 33 & 34 Vict. c. 23.

Provided that this enactment shall not affect the title to the property so far as relates to any beneficial interest therein of any such trustee or mortgagee.

66. This Act, and every order purporting to be made under this Act, shall be a complete indemnity to the Bank of England, and to all persons for any acts done pursuant thereto, and it shall not be necessary for the Bank or for any person to inquire concerning the propriety of the order, or whether the court by which the order was made had jurisdiction to make it.

Indemnity to banks, &c.

67.—(1) In this Act "the court" means the High Court, and also the Court of Chancery of the County Palatine of Lancaster or the Court of Chancery of the County Palatine of Durham, or the county court, where those courts respectively have jurisdiction.

Jurisdiction of the "court."

See Rules of the Supreme Court 1925 1925 W. N. 332

(2) The procedure under this Act in palatine courts and county courts shall be in accordance with the Acts and rules regulating the procedure of those courts.

68. In this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say:—

Definitions.

(1) "Authorised investments" mean investments authorised by the instrument, if any, creating the trust for the investment of money subject to the trust, or by law;

(2) "Contingent right" as applied to land includes a contingent or executory interest, a possibility coupled with an interest, whether the object of the gift or limitation of the interest, or possibility is or is not ascertained, also a right of entry, whether immediate or future, and whether vested or contingent;

(3) "Convey" and "conveyance" as applied to any person include the execution by that person of every necessary or suitable assurance (including

an assent) for conveying, assigning, appointing, surrendering, or otherwise transferring or disposing of land whereof he is seised or possessed, or wherein he is entitled to a contingent right, either for his whole estate or for any less estate, together with the performance of all formalities required by law for the validity of the conveyance; "sale" includes an exchange;

(4) "Gazette" means the London Gazette;

(5) "Instrument" includes Act of Parliament;

(6) "Land" includes land of any tenure, and mines and minerals, whether or not severed from the surface, buildings or parts of buildings, whether the division is horizontal, vertical or made in any other way, and other corporeal hereditaments; also a manor, an advowson, and a rent and other incorporeal hereditaments, and an easement, right, privilege, or benefit in, over, or derived from land, but not an undivided share in land; and in this definition "mines and minerals" include any strata or seam of minerals or substances in or under any land, and powers of working and getting the same, but not an undivided share thereof; and "hereditaments" mean real property which under an intestacy occurring before the commencement of this Act might have devolved on an heir;

(7) "Mortgage" and "mortgagee" include a charge or chargee by way of legal mortgage, and relate to every estate and interest regarded in equity as merely a security for money, and every person deriving title under the original mortgagee;

(8) "Pay" and "payment" as applied in relation to stocks and securities and in connexion with the expression "into court" include the deposit or transfer of the same in or into court;

(9) "Personal representative" means the executor, original or by representation, or administrator for the time being of a deceased person;

(10) "Possession" includes receipt of rents and profits or the right to receive the same, if any;

"income" includes rents and profits; and "possessed" applies to receipt of income of and to any vested estate less than a life interest in possession or in expectancy in any land;

(11) "Property" includes real and personal property, and any estate share and interest in any property, real or personal, and any debt, and any thing in action, and any other right or interest, whether in possession or not;

(12) "Rights" include estates and interests;

(13) "Securities" include stocks, funds, and shares; and so far as relates to payments into court has the same meaning as in the enactments relating to funds in the Supreme Court and "securities payable to bearer" include securities transferable by delivery or by delivery and endorsement;

(14) "Stock" includes fully paid up shares, and so far as relates to vesting orders made by the court under this Act, includes any fund, annuity, or security transferable in books kept by any company or society, or by instrument of transfer either alone or accompanied by other formalities, and any share or interest therein;

(15) "Tenant for life," "statutory owner," "settled land," "settlement," "trust instrument," "trustees of the settlement" "lunatic," "defective" "term of years absolute" and "vesting instrument" have the same meanings as in the Settled Land Act, 1925, and "entailed interest" has the same meaning as in the Law of Property Act, 1925; 15 Geo. 5. c. 20.

(16) "Transfer" in relation to stock or securities, includes the performance and execution of every deed, power of attorney, act, and thing on the part of the transferor to effect and complete the title in the transferee;

(17) "Trust" does not include the duties incident to an estate conveyed by way of mortgage, but with this exception the expressions "trust" and "trustee" extend to implied and constructive trusts, and to cases where the trustee has a

beneficial interest in the trust property, and to the duties incident to the office of a personal representative, and "trustee" where the context admits, includes a personal representative, and "new trustee" includes an additional trustee;

(18) "Trust corporation" means the Public Trustee or a corporation either appointed by the court in any particular case to be a trustee, or entitled by rules made under subsection (3) of section four of the Public Trustee Act, 1906, to act as custodian trustee;

(19) "Trust for sale" in relation to land means an immediate binding trust for sale, whether or not exercisable at the request or with the consent of any person, and with or without power at discretion to postpone the sale; "trustees for sale" mean the persons (including a personal representative) holding land on trust for sale;

(20) "United Kingdom" means Great Britain and Northern Ireland.

Application of Act.

69.—(1) This Act, except where otherwise expressly provided, applies to trusts including, so far as this Act applies thereto, executorships and administratorships constituted or created either before or after the commencement of this Act.

(2) The powers conferred by this Act on trustees are in addition to the powers conferred by the instrument, if any, creating the trust, but those powers, unless otherwise stated, apply if and so far only as a contrary intention is not expressed in the instrument, if any, creating the trust, and have effect subject to the terms of that instrument.

(3) This Act does not affect the legality or validity of anything done before the commencement of this Act, except as otherwise hereinbefore expressly provided, and except that the enactments mentioned in the First Schedule to this Act shall be deemed always to have had effect subject to the provisions set forth in that Schedule.

Enactments repealed.

70. The Acts mentioned in the Second Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule:

Provided that, without prejudice to the provisions of section thirty-eight of the Interpretation Act, 1889: 52 & 53 Vict. c. 63.

(*a*) Nothing in this repeal shall affect any vesting order or appointment made or other thing done under any enactment so repealed, and any order or appointment so made may be revoked or varied in like manner as if it had been made under this Act;

(*b*) References in any document to any enactment repealed by this Act shall be construed as references to this Act or to the corresponding enactment in this Act.

Short title, commencement, extent.

71.—(1) This Act may be cited as the Trustee Act, 1925.

(2) This Act shall come into operation on the first day of January, nineteen hundred and twenty-six.

(3) This Act, except where otherwise expressly provided, extends to England and Wales only.

(4) The provisions of this Act bind the Crown.

SCHEDULES.

FIRST SCHEDULE.

RETROSPECTIVE AMENDMENTS. Section 69.

(1) The investments mentioned in paragraphs (*d*), (*i*) and (*k*) of section one of the Trustee Act, 1893, and in the corresponding provisions of any enactment replaced by that Act, shall be deemed always to have included investments mentioned in paragraphs (*d*), (*i*) and (*k*) of subsection (1) of section one of this Act.

(2) In subsection (3) of section twelve of the Trustee Act, 1893, and in the enactment which it replaced, the expression "customary land" shall be deemed never to have included land in regard to which a tenant had power to dispose of the legal estate by deed, and the expression "land conveyed by way of mortgage" shall be deemed never to have included land conveyed in trust for securing debentures or debenture stock.

(3) Section forty-seven of the Trustee Act, 1893, shall be deemed always to have had effect as if after the words "Settled

1ST SCH. —*cont.*

" Land Acts, 1882 to 1890," there had been inserted the words " and trustees for the purposes of section forty-two of the " Conveyancing Act, 1881."

(4) Subsection (1) of section eight of the Conveyancing Act, 1911, shall be deemed always to have had effect as if at the end thereof there had been inserted the words " or other the trustees or trustee for the time being of the trust."

SECOND SCHEDULE.

Section 70.

ENACTMENTS REPEALED.

Session and Chapter.	Short Title.	Extent of Repeal.
22 & 23 Vict. c. 35.	The Law of Property Amendment Act, 1859.	Sections twenty-three, twenty-seven, twenty-eight and twenty-nine.
44 & 45 Vict. c. 41.	The Conveyancing Act, 1881.	Subsections (4) and (5) of section forty-two.
48 & 49 Vict. c. 25.	The East India Unclaimed Stock Act, 1885.	Subsection (3) of section twenty-three.
53 Vict. c. 5. -	The Lunacy Act, 1890 -	Sections one hundred and thirty-five to one hundred and thirty-eight, so far as they relate to lunatic trustees, except where the Judge or Master in Lunacy is given concurrent jurisdiction with the High Court.
56 & 57 Vict. c. 53.	The Trustee Act, 1893 -	The whole Act.
57 Vict. c. 10 -	The Trustee Act, 1893, Amendment Act, 1894.	Sections one and four.
59 & 60 Vict. c. 35.	The Judicial Trustees Act, 1896.	Section three.
1 & 2 Geo. 5. c. 37.	The Conveyancing Act, 1911.	Section eight.
1 & 2 Geo. 5. c. 40.	The Lunacy Act, 1911 -	Section one.
4 & 5 Geo. 5. c. 47.	The Deeds of Arrangement Act, 1914.	Section eighteen.
9 & 10 Geo. 5. c. 99.	The Housing (Additional Powers) Act, 1919.	Section nine.
11 & 12 Geo. 5. c. 55.	The Railways Act, 1921 -	The words " the Trustee " Act, 1893, and " in section fifteen.

2ND SCH. —*cont.*

Session and Chapter.	Short Title.	Extent of Repeal.
12 & 13 Geo. 5. c. 16.	The Law of Property Act, 1922.	Subsection (4) of section eighty-three, section eighty-eight; Part IV., except subsection (7) of section one hundred and ten, subsection (3) of section one hundred and thirteen, and subsection (5) of section one hundred and twenty-three.
12 & 13 Geo. 5. c. 60.	The Lunacy Act, 1922 -	Subsections (3) (4) and (5) of section two.
15 Geo. 5. c. 5.	The Law of Property (Amendment) Act, 1924.	Section five and the Fifth Schedule.

CHAPTER 20.

An Act to consolidate the enactments relating to Conveyancing and the Law of Property in England and Wales. [9th April 1925.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

PART I.

GENERAL PRINCIPLES AS TO LEGAL ESTATES, EQUITABLE INTERESTS AND POWERS.

Legal estates and equitable interests.

1.—(1) The only estates in land which are capable of subsisting or of being conveyed or created at law are—

(*a*) An estate in fee simple absolute in possession;

(*b*) A term of years absolute.

(2) The only interests or charges in or over land which are capable of subsisting or of being conveyed or created at law are—

(*a*) An easement, right, or privilege in or over land for an interest equivalent to an estate in fee

simple absolute in possession or a term of years absolute;

(*b*) A rentcharge in possession issuing out of or charged on land being either perpetual or for a term of years absolute;

(*c*) A charge by way of legal mortgage;

(*d*) Land tax, tithe rentcharge, and any other similar charge on land which is not created by an instrument;

(*e*) Rights of entry exercisable over or in respect of a legal term of years absolute, or annexed, for any purpose, to a legal rentcharge.

(3) All other estates, interests, and charges in or over land take effect as equitable interests.

(4) The estates, interests, and charges which under this section are authorised to subsist or to be conveyed or created at law are (when subsisting or conveyed or created at law) in this Act referred to as "legal estates," and have the same incidents as legal estates subsisting at the commencement of this Act; and the owner of a legal estate is referred to as "an estate owner" and his legal estate is referred to as his estate.

(5) A legal estate may subsist concurrently with or subject to any other legal estate in the same land in like manner as it could have done before the commencement of this Act.

(6) A legal estate is not capable of subsisting or of being created in an undivided share in land or of being held by an infant.

(7) Every power of appointment over, or power to convey or charge land or any interest therein, whether created by a statute or other instrument or implied by law, and whether created before or after the commencement of this Act (not being a power vested in a legal mortgagee or an estate owner in right of his estate and exercisable by him or by another person in his name and on his behalf), operates only in equity.

(8) Estates, interests, and charges in or over land which are not legal estates are in this Act referred to as "equitable interests," and powers which by this Act are to operate in equity only are in this Act referred to as "equitable powers."

(9) The provisions in any statute or other instrument requiring land to be conveyed to uses shall take effect as directions that the land shall (subject to creating or

reserving thereout any legal estate authorised by this Act which may be required) be conveyed to a person of full age upon the requisite trusts.

(10) The repeal of the Statute of Uses (as amended) does not affect the operation thereof in regard to dealings taking effect before the commencement of this Act.

Conveyances overreaching certain equitable interests and powers. 15 Geo. 5. c. 18.

2.—(1) A conveyance to a purchaser of a legal estate in land shall overreach any equitable interest or power affecting that estate, whether or not he has notice thereof, if—

(i) the conveyance is made under the powers conferred by the Settled Land Act, 1925, or any additional powers conferred by a settlement, and the equitable interest or power is capable of being overreached thereby, and the statutory requirements respecting the payment of capital money arising under the settlement are complied with;

(ii) the conveyance is made by trustees for sale and the equitable interest or power is at the date of the conveyance capable of being overreached by such trustees under the provisions of subsection (2) of this section or independently of that subsection, and the statutory requirements respecting the payment of capital money arising under a disposition upon trust for sale are complied with;

(iii) the conveyance is made by a mortgagee or personal representative in the exercise of his paramount powers, and the equitable interest or power is capable of being overreached by such conveyance, and any capital money arising from the transaction is paid to the mortgagee or personal representative;

(iv) the conveyance is made under an order of the court and the equitable interest or power is bound by such order, and any capital money arising from the transaction is paid into, or in accordance with the order of, the court.

(2) Where the legal estate affected is not, when the equitable interest or power is created, subject to a trust for sale or a settlement, then, if the estate owner, whether before or after the commencement of this Act, disposes of his estate to trustees upon trust for sale,

and at the date of a conveyance made, after such commencement, under the disposition upon trust for sale the trustees (whether original or substituted) are either—

(*a*) two or more individuals approved or appointed by the court or the successors in office of the individuals so approved or appointed; or

(*b*) a trust corporation,

such equitable interest or power shall, notwithstanding any stipulation to the contrary, be overreached by the conveyance, and shall, according to its priority, take effect as if created or arising by means of a primary trust affecting the proceeds of sale and the income of the land until sale.

(3) The following equitable interests and powers are excepted from the operation of subsection (2) of this section, namely—

(i) Any equitable interest protected by a deposit of documents relating to the legal estate affected;

(ii) The benefit of any covenant or agreement restrictive of the user of land;

(iii) Any easement, liberty, or privilege over or affecting land and being merely an equitable interest (in this Act referred to as an "equitable easement");

(iv) The benefit of any contract (in this Act referred to as an "estate contract") to convey or create a legal estate, including a contract conferring either expressly or by statutory implication a valid option to purchase, a right of pre-emption, or any other like right;

(v) Any equitable interest protected by registration under the Land Charges Act, 1925, other than—

(*a*) an annuity within the meaning of Part II. of that Act;

(*b*) a limited owner's charge or a general equitable charge within the meaning of that Act.

(4) Subject to the protection afforded by this section to the purchaser of a legal estate, nothing contained in this section shall deprive a person entitled to an equitable charge of any of his rights or remedies for enforcing the same.

(5) So far as regards the following interests, created before the commencement of this Act (which accordingly

are not within the provisions of the Land Charges Act, 1925), namely— 15 Geo. 5. c. 22.

(*a*) the benefit of any covenant or agreement restrictive of the user of the land;

(*b*) any equitable easement;

(*c*) the interest under a puisne mortgage within the meaning of the Land Charges Act, 1925, unless and until acquired under a transfer made after the commencement of this Act;

(*d*) the benefit of an estate contract, unless and until the same is acquired under a conveyance made after the commencement of this Act;

a purchaser of a legal estate shall only take subject thereto if he has notice thereof, and the same are not overreached under the provisions contained or in the manner referred to in this section.

Manner of giving effect to equitable interests and powers.

3.—(1) All equitable interests and powers in or over land shall be enforceable against the estate owner of the legal estate affected in manner following (that is to say):—

(*a*) Where the legal estate affected is settled land, the tenant for life or statutory owner shall be bound to give effect to the equitable interests and powers in manner provided by the Settled Land Act, 1925;

(*b*) Where the legal estate affected is vested in trustees for sale—

(i) The trustees shall stand possessed of the net proceeds of sale after payment of costs and of the net rents and profits of the land until sale after payment of rates, taxes, costs of insurance, repairs, and other outgoings, upon such trusts and subject to such powers and provisions as may be requisite for giving effect to the equitable interests and powers affecting the same respectively, of which they have notice, and whether created before or after the disposition upon trust for sale, according to their respective priorities:

(ii) Where, by reason of the exercise of any equitable power or under any trust affecting the proceeds of sale, any principal sum is required to be raised, or any person of full age becomes entitled to require a legal estate in the land to be vested in him in priority to the trust for sale, then, unless the claim is

satisfied out of the net proceeds of sale, the trustees for sale shall (if so requested in writing) be bound to transfer or create such legal estates, to take effect in priority to the trust for sale, as may be required for raising the money by way of legal mortgage or for giving legal effect to the rights of the person so entitled:

Provided that, if the proceeds of sale are held in trust for persons of full age in undivided shares absolutely free from incumbrances affecting undivided shares, those persons cannot require the land to be conveyed to them in undivided shares, but may (subject to effect being given by way of legal mortgage to incumbrances affecting the entirety) require the same to be vested in any of them (not exceeding four) as joint tenants on trust for sale; and if the conveyance purports to transfer the land to any of them in undivided shares or to more than four such persons, it shall operate only as a transfer to them or (if more than four) to the four first named therein as joint tenants on trust for sale:

(*c*) Where the legal estate affected is neither settled land nor vested in trustees for sale, the estate owner shall be bound to give effect to the equitable interests and powers affecting his estate of which he has notice according to their respective priorities. This provision does not affect the priority or powers of a legal mortgagee, or the powers of personal representatives for purposes of administration.

(2) Effect may be given by means of a legal mortgage to an agreement for a mortgage, charge or lien (whether or not arising by operation of law) if the agreement, charge or lien ought to have priority over the trust for sale.

(3) Where, by reason of a statutory or other right of reverter, or of an equitable right of entry taking effect, or for any other reason, a person becomes entitled to require a legal estate to be vested in him, then and in any such case the estate owner whose estate is affected shall be bound to convey or create such legal estate as the case may require.

(4) If any question arises whether any and what legal estate ought to be transferred or created as aforesaid, any person interested may apply to the court for directions in the manner provided by this Act.

(5) If the trustees for sale or other estate owners refuse or neglect for one month after demand to transfer or create any such legal estate, or if by reason of their being out of the United Kingdom or being unable to be found, or by reason of the dissolution of a corporation, or for any other reason, the court is satisfied that the transaction cannot otherwise be effected, or cannot be effected without undue delay or expense, the court may, on the application of any person interested, make a vesting order transferring or creating a legal estate in the manner provided by this Act.

(6) This section does not affect a purchaser of a legal estate taking free from an equitable interest or power.

Creation and disposition of equitable interests.

4.—(1) Interests in land validly created or arising after the commencement of this Act, which are not capable of subsisting as legal estates, shall take effect as equitable interests, and, save as otherwise expressly provided by statute, interests in land which under the Statute of Uses or otherwise could before the commencement of this Act have been created as legal interests, shall be capable of being created as equitable interests:

Provided that, after the commencement of this Act (and save as hereinafter expressly enacted), an equitable interest in land shall only be capable of being validly created in any case in which an equivalent equitable interest in property real or personal could have been validly created before such commencement.

(2) All rights and interests in land may be disposed of, including—

(*a*) a contingent, executory or future equitable interest in any land, or a possibility coupled with an interest in any land, whether or not the object of the gift or limitation of such interest or possibility be ascertained;

(*b*) a right of entry, into or upon land whether immediate or future, and whether vested or contingent.

(3) All rights of entry affecting a legal estate which are exercisable on condition broken or for any other

reason may after the commencement of this Act, be made exercisable by any person and the persons deriving title under him, but, in regard to an estate in fee simple (not being a rentcharge held for a legal estate) only within the period authorised by the rule relating to perpetuities.

Satisfied terms, whether created out of freehold or leasehold land to cease.

5.—(1) Where the purposes of a term of years created or limited at any time out of freehold land, become satisfied either before or after the commencement of this Act (whether or not that term either by express declaration or by construction of law becomes attendant upon the freehold reversion) it shall merge in the reversion expectant thereon and shall cease accordingly.

(2) Where the purposes of a term of years created or limited, at any time, out of leasehold land, become satisfied after the commencement of this Act, that term shall merge in the reversion expectant thereon and shall cease accordingly.

(3) Where the purposes are satisfied only as respects part of the land comprised in a term, this section shall have effect as if a separate term had been created in regard to that part of the land.

Saving of lessors' and lessees' covenants.

6.—(1) Nothing in this Part of this Act affects prejudicially the right to enforce any lessor's or lessee's covenants, agreements or conditions (including a valid option to purchase or right of pre-emption over the reversion), contained in any such instrument as is in this section mentioned, the benefit or burden of which runs with the reversion or the term.

(2) This section applies where the covenant, agreement or condition is contained in any instrument—

(*a*) creating a term of years absolute, or

(*b*) varying the rights of the lessor or lessee under the instrument creating the term.

Saving of certain legal estates and statutory powers.

7.—(1) A fee simple which, by virtue of the Lands Clauses Acts, the School Sites Acts, or any similar statute, is liable to be divested, is for the purposes of this Act a fee simple absolute, and remains liable to be divested as if this Act had not been passed.

(2) A fee simple vested in a corporation which is liable to determine by reason of the dissolution of the corporation is, for the purposes of this Act, a fee simple absolute.

(3) The provisions of—

(*a*) the Forfeiture Act, 1870, in regard to the land of a convict; 33 & 34 Vict. c. 23.

(*b*) the Friendly Societies Act, 1896, in regard to land to which that Act applies; 59 & 60 Vict. c. 25.

(*c*) any other statutes conferring special facilities or prescribing special modes (whether by way of registered memorial or otherwise) for disposing of or acquiring land, or providing for the vesting (by conveyance or otherwise) of the land in trustees or any person, or the holder for the time being of an office or any corporation sole or aggregate (including the Crown);

shall remain in full force.

This subsection does not authorise an entailed interest to take effect otherwise than as an equitable interest.

(4) Where any such power for disposing of or creating a legal estate is exercisable by a person who is not the estate owner, the power shall, when practicable, be exercised in the name and on behalf of the estate owner.

Saving of certain legal powers to lease.

8.—(1) All leases or tenancies at a rent for a term of years absolute authorised to be granted by a mortgagor or mortgagee or by the Settled Land Act, 1925, or any other statute (whether or not extended by any instrument) may be granted in the name and on behalf of the estate owner by the person empowered to grant the same, whether being an estate owner or not, with the same effect and priority as if this Part of this Act had not been passed; but this section does not (except as respects the usual qualified covenant for quiet enjoyment) authorise any person granting a lease in the name of an estate owner to impose any personal liability on him.

(2) Where a rentcharge is held for a legal estate, the owner thereof may under the statutory power or under any corresponding power, create a legal term of years absolute for securing or compelling payment of the same; but in other cases terms created under any such power shall, unless and until the estate owner of the land charged gives legal effect to the transaction, take effect only as equitable interests.

Vesting orders and dispositions of legal estates operating as conveyances by an estate owner.

9.—(1) Every such order, declaration, or conveyance as is hereinafter mentioned, namely—

(*a*) every vesting order made by any court or other competent authority;

(*b*) every vesting declaration (express or implied) under any statutory power;

(*c*) every vesting instrument made by the trustees of a settlement or other persons under the provisions of the Settled Land Act, 1925;

(*d*) every conveyance by a person appointed for the purpose under an order of the court or authorised under any statutory power to convey in the name or on behalf of an estate owner;

(*e*) every conveyance made under any power reserved or conferred by this Act,

which is made or executed for the purpose of vesting, conveying, or creating a legal estate, shall operate to convey or create the legal estate disposed of in like manner as if the same had been a conveyance executed by the estate owner of the legal estate to which the order, declaration, vesting instrument, or conveyance relates.

(2) Where the order, declaration, or conveyance is made in favour of a purchaser, the provisions of this Act relating to a conveyance of a legal estate to a purchaser shall apply thereto.

15 Geo. 5. c. 19.

(3) The provisions of the Trustee Act, 1925, relating to vesting orders and orders appointing a person to convey shall apply to all vesting orders authorised to be made by this Part of this Act.

Title to be shown to legal estates.

10.—(1) Where title is shown to a legal estate in land, it shall be deemed not necessary or proper to include in the abstract of title an instrument relating only to interests or powers which will be over-reached by the conveyance of the estate to which title is being shown; but nothing in this Part of this Act affects the liability of any person to disclose an equitable interest or power which will not be so over-reached, or to furnish an abstract of any instrument creating or affecting the same.

(2) A solicitor delivering an abstract framed in accordance with this Part of this Act shall not incur any liability on account of an omission to include therein an instrument which, under this section, is to be deemed not necessary or proper to be included, nor shall any liability be implied by reason of the inclusion of any such instrument.

Registration in Middlesex and Yorkshire as respects legal estates.

11.—(1) It shall not be necessary to register a memorial of any instrument made after the commencement of this Act in any local deeds registry unless the instrument operates to transfer or create a legal estate, or to create a charge thereon by way of legal mortgage; nor shall the registration of a memorial of any instrument not required to be registered affect any priority.

(2) Probates and letters of administration shall be treated as instruments capable of transferring a legal estate to personal representatives.

(3) Memorials of all instruments capable of transferring or creating a legal estate or charge by way of legal mortgage, may, when so operating, be registered.

Limitation and Prescription Acts.

12. Nothing in this Part of this Act affects the operation of any statute, or of the general law for the limitation of actions or proceedings relating to land or with reference to the acquisition of easements or rights over or in respect of land.

Effect of possession of documents.

13. This Act shall not prejudicially affect the right or interest of any person arising out of or consequent on the possession by him of any documents relating to a legal estate in land, nor affect any question arising out of or consequent upon any omission to obtain or any other absence of possession by any person of any documents relating to a legal estate in land.

Interests of persons in possession

14. This Part of this Act shall not prejudicially affect the interest of any person in possession or in actual occupation of land to which he may be entitled in right of such possession or occupation.

Presumption that parties are of full age.

15. The persons expressed to be parties to any conveyance shall, until the contrary is proved, be presumed to be of full age at the date thereof.

Death Duties.

Liability for death duties.

16.—(1) A personal representative shall be accountable for all death duties which may become leviable or payable on the death of the deceased in respect of land (including settled land) which devolves upon him by virtue of any statute or otherwise.

(2) In every other case the estate owner (other than a purchaser who acquires a legal estate after the charge for death duties has attached and free from such charge),

shall be accountable for all the duties aforesaid which become leviable or payable in respect of his estate in the land or any interest therein capable of being overreached by his conveyance, being a conveyance to a purchaser made under the Settled Land Act, 1925, or pursuant to a trust for sale.

(3) For the purpose of raising the duty, and the costs of raising the same, the personal representative or other person accountable as aforesaid shall have all the powers which are by any statute conferred for raising the duty.

(4) Nothing in this Act shall alter any duty payable in respect of land, or impose any new duty thereon, or affect the remedies of the Commissioners of Inland Revenue against any person other than a purchaser or a person deriving title under him.

(5) Notwithstanding that any duties are by this section made payable by the personal representative or other person aforesaid, nothing in this Part of this Act shall affect the liability of the persons beneficially interested or their respective interests in respect of any duty and they shall accordingly account for or repay the same and any interest and costs attributable thereto to the said Commissioners or to the personal representative or other person accountable as aforesaid, as the case may require.

(6) Nothing in this Part of this Act shall impose on a personal representative, tenant for life, statutory owner, trustee for sale, or other person in a fiduciary position, as such, any liability for payment of duty, in excess of the assets (including land) vested in him or in the trustees of the settlement which may for the time being be available in his hands or in the hands of such trustees for the payment of the duty or which would have been so available but for his or their own neglect or default or impose a charge for duties on leasehold land, or render a mortgagee liable in respect of any charge for duties which is not paramount to his mortgage.

(7) The said Commissioners, on being satisfied that a personal representative or other person accountable has paid or commuted or will pay or commute all death duties for which he is accountable in respect of the land or any part thereof, shall, if required by him, give a certificate

to that effect, which shall discharge from any further claim for such duty the land to which the certificate extends, and the production of such certificate to the land registrar or other proper officer shall be a sufficient authority to enable him to cancel any land charge registered in respect of the duty so far as it affects the land to which the certificate extends.

Protection of purchasers from liability for death duties.

17.—(1) Where a charge in respect of death duties is not registered as a land charge, a purchaser of a legal estate shall take free therefrom, unless the charge for duties attached before the commencement of this Act and the purchaser had notice of the facts giving rise to the charge.

(2) Where a charge in respect of death duties is not registered as a land charge, the person who conveys a legal estate to a purchaser, and the proceeds of sale, funds, and other property (if any) derived from the conveyance and the income thereof shall (subject as in this Act provided) be or remain liable in respect of and stand charged with the payment of the death duties the charge for which is over-reached by the conveyance, together with any interest payable in respect of the same.

(3) Notwithstanding that any death duties may be payable by instalments, on a conveyance of a legal estate by way of sale exchange or legal mortgage all death duties payable in respect of the land dealt with and remaining unpaid shall, if the charge for the duties is over-reached by such conveyance, immediately become payable and carry interest at the rate of four pounds per centum per annum from the date of the conveyance:

Provided that, where by reason of this subsection an amount is paid or becomes payable for duties and interest in excess of the amount which would have been payable if the duties had continued to be paid by instalments, such excess shall be repaid or allowed as a deduction by the Commissioners of Inland Revenue.

(4) Except in the case of a conveyance to a purchaser, a conveyance shall take effect subject to any subsisting charge or liability for payment of the duties and interest, if any, notwithstanding that the charge for duties may not have been registered.

(5) This section does not apply to registered land.

Application of capital money in discharge of death duties.

18.—(1) Capital money liable to be laid out in the purchase of land to be settled in the same manner as the land in respect of which any death duties may have become payable, and personal estate held on the same trusts as the proceeds of sale of land, being land held on trust for sale in respect of which any such duties may have become payable, may, by the direction of the tenant for life, statutory owner, or trustee for sale who is accountable, and although the duty is only payable in respect of an interest which is or is capable of being over-reached by a conveyance to a purchaser, be applied in discharging all or any of the duties aforesaid and the costs of discharging the same.

(2) Where the duties would not, except by virtue of the last subsection, be payable out of the capital money or personal estate aforesaid—

(*a*) the amount so paid shall be repaid by the person liable for the duty to the trustees of the settlement or the trustees for sale by the like instalments and at the like rate of interest by and at which the unpaid duty and the interest thereon might have been paid, or, where the land has been conveyed to a purchaser, would have been paid if the land had not been so conveyed;

(*b*) the interest of the person so liable, remaining subject to the settlement of the land or of the proceeds of sale, shall stand charged with the repayment of the instalments and the interest aforesaid;

(*c*) the trustees of the settlement or the trustees for sale shall be entitled to recover and receive any excess of duty which may become repayable by the said Commissioners.

Infants and Lunatics.

Effect of conveyances of legal estates to infants.

19.—(1) A conveyance of a legal estate in land to an infant alone or to two or more persons jointly both or all of whom are infants, shall have such operation as is provided for in the Settled Land Act, 1925.

(2) A conveyance of a legal estate in land to an infant, jointly with one or more other persons of full age, shall operate to vest the legal estate in the other

person or persons on the statutory trusts, but not so as to sever any joint tenancy in the net proceeds of sale or in the rents and profits until sale, or affect the right of a tenant for life or statutory owner to have settled land vested in him.

(3) The foregoing provisions of this section do not apply to conveyances on trust or by way of mortgage.

(4) A conveyance of a legal estate to an infant alone or to two or more persons jointly, both or all of whom are infants, on any trusts, shall operate as a declaration of trust and shall not be effectual to pass any legal estate.

(5) A conveyance of a legal estate in land to an infant jointly with one or more other persons of full age on any trusts shall operate as if the infant had not been named therein, but without prejudice to any beneficial interest in the land intended to be thereby provided for the infant.

(6) A grant or transfer of a legal mortgage of land to an infant shall operate only as an agreement for valuable consideration to execute a proper conveyance when the infant attains full age, and in the meantime to hold any beneficial interest in the mortgage debt in trust for the persons for whose benefit the conveyance was intended to be made:

Provided that, if the conveyance is made to the infant and another person or other persons of full age, it shall operate as if the infant had not been named therein, but without prejudice to any beneficial interest in the mortgage debt intended to be thereby provided for the infant.

Infants not to be appointed trustees.

20. The appointment of an infant to be a trustee in relation to any settlement or trust shall be void, but without prejudice to the power to appoint a new trustee to fill the vacancy.

Receipts by married infants.

21. A married infant shall have power to give valid receipts for all income (including statutory accumulations of income made during the minority) to which the infant may be entitled in like manner as if the infant were of full age.

Conveyances on behalf of

22.—(1) Where a legal estate in land (whether settled or not) is vested in a lunatic, or a defective, either solely or jointly with any other person or persons,

Lunatics and defectives and as to land held by them on trust for sale.

his committee or receiver shall, under an order in lunacy or of the court, or under any statutory power, make or concur in making all requisite dispositions for conveying or creating a legal estate in the name and on behalf of the lunatic or defective.

(2) If land held on trust for sale is vested in a lunatic, or a defective, either solely or jointly with any other person or persons, a new trustee shall be appointed in his place, or he shall be otherwise discharged from the trust, before the legal estate is dealt with under the trust for sale or under the powers vested in the trustees for sale.

Dispositions on Trust for Sale.

Duration of trusts for sale.

23. Where land has, either before or after the commencement of this Act, become subject to an express or implied trust for sale, such trust shall, so far as regards the safety and protection of any purchaser thereunder, be deemed to be subsisting until the land has been conveyed to or under the direction of the persons interested in the proceeds of sale.

This section applies to sales whether made before or after the commencement of this Act, but operates without prejudice to an order of any court restraining a sale.

Appointment of trustees of dispositions on trust for sale.

24.—(1) The persons having power to appoint new trustees of a conveyance of land on trust for sale shall be bound to appoint the same persons (if any) who are for the time being trustees of the settlement of the proceeds of sale, but a purchaser shall not be concerned to see whether the proper persons are appointed to be trustees of the conveyance of the land.

(2) This section applies whether the settlement of the proceeds of sale or the conveyance on trust for sale comes into operation before or after the commencement of this Act.

Power to postpone sale.

25.—(1) A power to postpone sale shall, in the case of every trust for sale of land, be implied unless a contrary intention appears.

(2) Where there is a power to postpone the sale, then (subject to any express direction to the contrary in the instrument, if any, creating the trust for sale) the trustees for sale shall not be liable in any way for postponing the sale, in the exercise of their discretion,

for any indefinite period; nor shall a purchaser of a legal estate be concerned in any case with any directions respecting the postponement of a sale.

(3) The foregoing provisions of this section apply whether the trust for sale is created before or after the commencement or by virtue of this Act.

(4) Where a disposition or settlement coming into operation after the commencement of this Act contains a trust either to retain or sell land the same shall be construed as a trust to sell the land with power to postpone the sale.

Consents to the execution of a trust for sale.

26.—(1) If the consent of more than two persons is by the disposition made requisite to the execution of a trust for sale of land, then, in favour of a purchaser, the consent of any two of such persons to the execution of the trust or to the exercise of any statutory or other powers vested in the trustees for sale shall be deemed sufficient.

(2) Where the person whose consent to the execution of any such trust or power is expressed to be required in a disposition is not sui juris or becomes subject to disability, his consent shall not, in favour of a purchaser, be deemed to be requisite to the execution of the trust or the exercise of the power; but the trustees shall, in any such case, obtain the separate consent of the parent or testamentary or other guardian of an infant or of the committee or receiver (if any) of a lunatic or defective.

(3) The trustees for sale shall, so far as practicable, give effect to the wishes of the persons of full age for the time being beneficially interested in possession in the rents and profits of the land until sale, or, in case of dispute, of the majority (according to the value of their combined interests) of such persons, but a purchaser shall not be concerned to see that such wishes are complied with.

(4) This section applies whether the trust for sale is created before or after the commencement or by virtue of this Act.

Purchaser not to be concerned with the trusts of the proceeds

27.—(1) A purchaser of a legal estate from trustees for sale shall not be concerned with the trusts affecting the proceeds of sale of land subject to a trust for sale (whether made to attach to such proceeds by virtue of this Act or otherwise), or affecting the rents and profits

of sale which are to be paid to two or more trustees or to a trust corporation.

of the land until sale, whether or not those trusts are declared by the same instrument by which the trust for sale is created.

(2) Notwithstanding anything to the contrary in a disposition on trust for sale of land or in the settlement of the net proceeds, the proceeds of sale or other capital money arising under the disposition shall not be paid to or applied by the direction of fewer than two persons as trustees of the disposition, except where the trustee is a trust corporation, but this subsection does not affect the right of a sole personal representative as such to give valid receipts for or direct the application of the proceeds of sale or other capital money aforesaid; nor, except where capital money arises on a transaction, render it necessary to have more than one trustee.

Powers of management, &c. conferred on trustees for sale.

28.—(1) Trustees for sale shall, in relation to land or to manorial incidents and to the proceeds of sale, have all the powers of a tenant for life and the trustees of a settlement under the Settled Land Act, 1925, including in relation to the land the powers of management conferred by that Act during a minority: and (subject to any express trust to the contrary) all capital money arising under the said powers shall, unless paid or applied for any purpose authorised by the Settled Land Act, 1925, be applicable in the same manner as if the money represented proceeds of sale arising under the trust for sale.

All land acquired under this subsection shall be conveyed to the trustees on trust for sale.

The powers conferred by this subsection shall be exercised with such consents (if any) as would have been required on a sale under the trust for sale, and when exercised shall operate to overreach any equitable interests or powers which are by virtue of this Act or otherwise made to attach to the net proceeds of sale as if created by a trust affecting those proceeds.

(2) Subject to any direction to the contrary in the disposition on trust for sale or in the settlement of the proceeds of sale, the net rents and profits of the land until sale, after keeping down costs of repairs and insurance and other outgoings shall be paid or applied, except so far as any part thereof may be liable to be set aside as capital money under the Settled Land Act, 1925, in like manner as the income of investments

representing the purchase money would be payable or applicable if a sale had been made and the proceeds had been duly invested.

(3) Where the net proceeds of sale have under the trusts affecting the same become absolutely vested in persons of full age in undivided shares (whether or not such shares may be subject to a derivative trust) the trustees for sale may, with the consent of the persons, if any, of full age, not being annuitants, interested in possession in the net rents and profits of the land until sale:—

(*a*) partition the land remaining unsold or any part thereof; and

(*b*) provide (by way of mortgage or otherwise) for the payment of any equality money;

and, upon such partition being arranged, the trustees for sale shall give effect thereto by conveying the land so partitioned in severalty (subject or not to any legal mortgage created for raising equality money) to persons of full age and either absolutely or on trust for sale or, where any part of the land becomes settled land, by a vesting deed, or partly in one way and partly in another in accordance with the rights of the persons interested under the partition, but a purchaser shall not be concerned to see or inquire whether any such consent as aforesaid has been given:

Provided that—

(i) If a share in the net proceeds belongs to a lunatic or defective, the consent of his committee or receiver shall be sufficient to protect the trustees for sale:

(ii) If a share in the net proceeds is affected by an incumbrance the trustees for sale may either give effect thereto or provide for the discharge thereof by means of the property allotted in respect of such share, as they may consider expedient.

(4) If a share in the net proceeds is absolutely vested in an infant, the trustees for sale may act on his behalf and retain land (to be held on trust for sale) or other property to represent his share, but in other respects the foregoing power shall apply as if the infant had been of full age.

(5) This section applies to dispositions on trust for sale coming into operation either before or after the commencement or by virtue of this Act.

Delegation of powers of management by trustees for sale.

29.—(1) The powers of and incidental to leasing, accepting surrenders of leases and management, conferred on trustees for sale whether by this Act or otherwise, may, until sale of the land, be revocably delegated from time to time, by writing, signed by them, to any person of full age (not being merely an annuitant) for the time being beneficially entitled in possession to the net rents and profits of the land during his life or for any less period: and in favour of a lessee such writing shall, unless the contrary appears, be sufficient evidence that the person named therein is a person to whom the powers may be delegated, and the production of such writing shall, unless the contrary appears, be sufficient evidence that the delegation has not been revoked.

(2) Any power so delegated shall be exercised only in the names and on behalf of the trustees delegating the power.

(3) The persons delegating any power under this section shall not, in relation to the exercise or purported exercise of the power, be liable for the acts or defaults of the person to whom the power is delegated, but that person shall, in relation to the exercise of the power by him, be deemed to be in the position and to have the duties and liabilities of a trustee.

47 & 48 Vict. c. 18.

(4) Where, at the commencement of this Act, an order made under section seven of the Settled Land Act, 1884, is in force, the person on whom any power is thereby conferred shall, while the order remains in force, exercise such power in the names and on behalf of the trustees for sale in like manner as if the power had been delegated to him under this section.

Powers of court where trustees for sale refuse to exercise powers.

30. If the trustees for sale refuse to sell or to exercise any of the powers conferred by either of the last two sections, or any requisite consent cannot be obtained, any person interested may apply to the court for a vesting or other order for giving effect to the proposed transaction or for an order directing the trustees for sale to give effect thereto, and the court may make such order as it thinks fit.

Trust for sale of mortgaged property where right of redemption is barred.

31.—(1) Where any property, vested in trustees by way of security, becomes, by virtue of the statutes of limitation, or of an order for foreclosure or otherwise, discharged from the right of redemption, it shall be held by them on trust for sale.

(2) The net proceeds of sale, after payment of costs and expenses, shall be applied in like manner as the mortgage debt, if received, would have been applicable, and the income of the property until sale shall be applied in like manner as the interest, if received, would have been applicable; but this subsection operates without prejudice to any rule of law relating to the apportionment of capital and income between tenant for life and remainderman.

(3) This section does not affect the right of any person to require that, instead of a sale, the property shall be conveyed to him or in accordance with his directions.

(4) Where the mortgage money is capital money for the purposes of the Settled Land Act, 1925, the trustees shall, if the tenant for life or statutory owner so requires, instead of selling any land forming the whole or part of such property, execute such subsidiary vesting deed with respect thereto as would have been required if the land had been acquired on a purchase with capital money.

(5) This section applies whether the right of redemption was discharged before or after the first day of January, nineteen hundred and twelve, but has effect without prejudice to any dealings or arrangements made before that date.

Implied trust for sale in personalty settlements.

32.—(1) Where a settlement of personal property or of land held upon trust for sale contains a power to invest money in the purchase of land, such land shall, unless the settlement otherwise provides, be held by the trustees on trust for sale; and the net rents and profits until sale, after keeping down costs of repairs and insurance and other outgoings, shall be paid or applied in like manner as the income of investments representing the purchase-money would be payable or applicable if a sale had been made and the proceeds had been duly invested in personal estate.

(2) This section applies to settlements (including wills) coming into operation after the thirty-first day of December, nineteen hundred and eleven, and does not apply to capital money arising under the Settled Land Act, 1925, or money liable to be treated as such.

Application of Pt. I. to personal representatives.

33. The provisions of this Part of this Act relating to trustees for sale apply to personal representatives holding on trust for sale, but without prejudice to their rights and powers for purposes of administration.

Undivided Shares and Joint Ownership.

Effect of future dispositions to tenants in common.

34.—(1) An undivided share in land shall not be capable of being created except as provided by the Settled Land Act, 1925, or as hereinafter mentioned.

(2) Where, after the commencement of this Act, land is expressed to be conveyed to any persons in undivided shares and those persons are of full age, the conveyance shall (notwithstanding anything to the contrary in this Act) operate as if the land had been expressed to be conveyed to the grantees, or, if there are more than four grantees, to the four first named in the conveyance, as joint tenants upon the statutory trusts hereinafter mentioned and so as to give effect to the rights of the persons who would have been entitled to the shares had the conveyance operated to create those shares:

Provided that, where the conveyance is made by way of mortgage the land shall vest in the grantees or such four of them as aforesaid for a term of years absolute (as provided by this Act) as joint tenants subject to cesser on redemption in like manner as if the mortgage money had belonged to them on a joint account, but without prejudice to the beneficial interests in the mortgage money and interest.

(3) A devise bequest or testamentary appointment, coming into operation after the commencement of this Act, of land to two or more persons in undivided shares shall operate as a devise bequest or appointment of the land to the trustees (if any) of the will for the purposes of the Settled Land Act, 1925, or, if there are no such trustees, then to the personal representatives of the testator, and in each case (but without

prejudice to the rights and powers of the personal representatives for purposes of administration) upon the statutory trusts hereinafter mentioned.

(4) Any disposition purporting to make a settlement of an undivided share in land shall only operate as a settlement of a corresponding share of the net proceeds of sale and of the rents and profits until sale of the entirety of the land.

Meaning of the statutory trusts.

35. For the purposes of this Act land held upon the "statutory trusts" shall be held upon the trusts and subject to the provisions following, namely, upon trust to sell the same and to stand possessed of the net proceeds of sale, after payment of costs, and of the net rents and profits until sale after payment of rates, taxes, costs of insurance, repairs, and other outgoings, upon such trusts, and subject to such powers and provisions, as may be requisite for giving effect to the rights of the persons (including an incumbrancer of a former undivided share or whose incumbrance is not secured by a legal mortgage) interested in the land.

Joint tenancies.

36.—(1) Where a legal estate (not being settled land) is beneficially limited to or held in trust for any persons as joint tenants, the same shall be held on trust for sale, in like manner as if the persons beneficially entitled were tenants in common, but not so as to sever their joint tenancy in equity.

(2) No severance of a joint tenancy of a legal estate, so as to create a tenancy in common in land, shall be permissible, whether by operation of law or otherwise, but this subsection does not affect the right of a joint tenant to release his interest to the other joint tenants, or the right to sever a joint tenancy in an equitable interest whether or not the legal estate is vested in the joint tenants:

Provided that, where a legal estate (not being settled land) is vested in joint tenants beneficially, and any tenant desires to sever the joint tenancy in equity, he shall give to the other joint tenants a notice in writing of such desire or do such other acts or things as would, in the case of personal estate, have been effectual to sever the tenancy in equity, and thereupon under the trust for sale affecting the land the net proceeds of sale, and the net rents and profits until sale, shall be held upon the

trusts which would have been requisite for giving effect to the beneficial interests if there had been an actual severance.

(3) Without prejudice to the right of a joint tenant to release his interest to the other joint tenants no severance of a mortgage term or trust estate, so as to create a tenancy in common, shall be permissible.

Rights of husband and wife.

37. A husband and wife shall, for all purposes of acquisition of any interest in property, under a disposition made or coming into operation after the commencement of this Act, be treated as two persons.

Party structures.

38.—(1) Where under a disposition or other arrangement which, if a holding in undivided shares had been permissible, would have created a tenancy in common, a wall or other structure is or is expressed to be made a party wall or structure, that structure shall be and remain severed vertically as between the respective owners, and the owner of each part shall have such rights to support and user over the rest of the structure as may be requisite for conferring rights corresponding to those which would have subsisted if a valid tenancy in common had been created.

(2) Any person interested may, in case of dispute, apply to the court for an order declaring the rights and interests under this section of the persons interested in any such party structure, and the court may make such order as it thinks fit.

Transitional Provisions.

Transitional provisions in First Schedule. 12 & 13 Geo. 5. c. 16.

39. For the purpose of effecting the transition from the law existing prior to the commencement of the Law of Property Act, 1922, to the law enacted by that Act (as amended), the provisions set out in the First Schedule to this Act shall have effect—

(1) for converting existing legal estates, interests and charges not capable under the said Act of taking effect as legal interests into equitable interests;

(2) for discharging, getting in or vesting outstanding legal estates;

(3) for making provision with respect to legal estates vested in infants;

(4) for subjecting land held in undivided shares to trusts for sale;

(5) for dealing with party structures and open spaces held in common;
(6) for converting tenancies by entireties into joint tenancies;
(7) for converting existing freehold mortgages into mortgages by demise;
(8) for converting existing leasehold mortgages into mortgages by sub-demise.

Part II.

Contracts, Conveyances and other Instruments.

Contracts.

Contracts for sale, &c. of land to be in writing.

40.—(1) No action may be brought upon any contract for the sale or other disposition of land or any interest in land, unless the agreement upon which such action is brought, or some memorandum or note thereof, is in writing, and signed by the party to be charged or by some other person thereunto by him lawfully authorised.

(2) This section applies to contracts whether made before or after the commencement of this Act and does not affect the law relating to part performance, or sales by the court.

Stipulations not of the essence of a contract.

41. Stipulations in a contract, as to time or otherwise, which according to rules of equity are not deemed to be or to have become of the essence of the contract, are also construed and have effect at law in accordance with the same rules.

Provisions as to contracts.

42.—(1) A stipulation that a purchaser of a legal estate in land shall accept a title made with the concurrence of any person entitled to an equitable interest shall be void, if a title can be made discharged from the equitable interest without such concurrence—

(*a*) under a trust for sale; or
(*b*) under this Act, or the Settled Land Act, 1925, or any other statute.

(2) A stipulation that a purchaser of a legal estate in land shall pay or contribute towards the costs of or incidental to—

(*a*) obtaining a vesting order, or the appointment of trustees of a settlement, or the appointment of trustees of a conveyance on trust for sale; or

(*b*) the preparation stamping or execution of a conveyance on trust for sale, or of a vesting instrument for bringing into force the provisions of the Settled Land Act, 1925;

shall be void.

(3) A stipulation contained in any contract for the sale or exchange of land made after the commencement of this Act, to the effect that an outstanding legal estate is to be traced or got in by or at the expense of a purchaser or that no objection is to be taken on account of an outstanding legal estate, shall be void.

(4) If the subject matter of any contract for the sale or exchange of land—

(i) is a mortgage term and the vendor has power to convey the fee simple in the land, or, in the case of a mortgage of a term of years absolute, the leasehold reversion affected by the mortgage, the contract shall be deemed to extend to the fee simple in the land or such leasehold reversion;

(ii) is an equitable interest capable of subsisting as a legal estate, and the vendor has power to vest such legal estate in himself or in the purchaser or to require the same to be so vested, the contract shall be deemed to extend to such legal estate;

(iii) is an entailed interest in possession and the vendor has power to vest in himself or in the purchaser the fee simple in the land, (or, if the entailed interest is an interest in a term of years absolute, such term,) or to require the same to be so vested, the contract shall be deemed to extend to the fee simple in the land or the term of years absolute.

(5) This section does not affect the right of a mortgagee of leasehold land to sell his mortgage term only if he is unable to convey or vest the leasehold reversion expectant thereon.

(6) Any contract to convey an undivided share in land made before or after the commencement of this Act, shall be deemed to be sufficiently complied with by the conveyance of a corresponding share in the proceeds of

sale of the land in like manner as if the contract had been to convey that corresponding share.

(7) Where a purchaser has power to acquire land compulsorily, and a contract, whether by virtue of a notice to treat or otherwise, is subsisting under which title can be made without payment of the compensation money into court, title shall be made in that way unless the purchaser, to avoid expense or delay or for any special reason, considers it expedient that the money should be paid into court.

(8) A vendor shall not have any power to rescind a contract by reason only of the enforcement of any right under this section.

(9) This section only applies in favour of a purchaser for money or money's worth.

Rights protected by registration.

43.—(1) Where a purchaser of a legal estate is entitled to acquire the same discharged from an equitable interest which is protected by registration as a pending action, annuity, writ, order, deed of arrangement or land charge, and which will not be over-reached by the conveyance to him, he may notwithstanding any stipulation to the contrary, require—

(*a*) that the registration shall be cancelled; or

(*b*) that the person entitled to the equitable interest shall concur in the conveyance;

and in either case free of expense to the purchaser.

(2) Where the registration cannot be cancelled or the person entitled to the equitable interest refuses to concur in the conveyance, this section does not affect the right of any person to rescind the contract.

Statutory commencements of title.

44.—(1) After the commencement of this Act thirty years shall be substituted for forty years as the period of commencement of title which a purchaser of land may require; nevertheless earlier title than thirty years may be required in cases similar to those in which earlier title than forty years might immediately before the commencement of this Act be required.

(2) Under a contract to grant or assign a term of years, whether derived or to be derived out of freehold or leasehold land, the intended lessee or assign shall not be entitled to call for the title to the freehold.

(3) Under a contract to sell and assign a term of years derived out of a leasehold interest in land, the intended assign shall not have the right to call for the title to the leasehold reversion.

(4) On a contract to grant a lease for a term of years to be derived out of a leasehold interest, with a leasehold reversion, the intended lessee shall not have the right to call for the title to that reversion.

(5) Where by reason of any of the three last preceding subsections, an intending lessee or assign is not entitled to call for the title to the freehold or to a leasehold reversion, as the case may be, he shall not, where the contract is made after the commencement of this Act, be deemed to be affected with notice of any matter or thing of which, if he had contracted that such title should be furnished, he might have had notice.

(6) Where land of copyhold or customary tenure has been converted into freehold by enfranchisement, then, under a contract to sell and convey the freehold, the purchaser shall not have the right to call for the title to make the enfranchisement.

(7) Where the manorial incidents formerly affecting any land have been extinguished, then, under a contract to sell and convey the freehold, the purchaser shall not have the right to call for the title of the person entering into any compensation agreement or giving a receipt for the compensation money to enter into such agreement or to give such receipt, and shall not be deemed to be affected with notice of any matter or thing of which, if he had contracted that such title should be furnished, he might have had notice.

(8) A purchaser shall not be deemed to be or ever to have been affected with notice of any matter or thing of which, if he had investigated the title or made enquiries in regard to matters prior to the period of commencement of title fixed by this Act, or by any other statute, or by any rule of law, he might have had notice, unless he actually makes such investigation or enquiries.

(9) Where a lease whether made before or after the commencement of this Act, is made under a power contained in a settlement, will, Act of Parliament, or other instrument, any preliminary contract for or relating to the lease shall not, for the purpose of the

deduction of title to an intended assign, form part of the title, or evidence of the title, to the lease.

(10) This section, save where otherwise expressly provided, applies to contracts for sale whether made before or after the commencement of this Act, and applies to contracts for exchange in like manner as to contracts for sale, save that it applies only to contracts for exchange made after such commencement.

(11) This section applies only if and so far as a contrary intention is not expressed in the contract.

Other statutory conditions of sale.

45.—(1) A purchaser of any property shall not—

(*a*) require the production, or any abstract or copy, of any deed, will, or other document, dated or made before the time prescribed by law, or stipulated, for the commencement of the title, even though the same creates a power subsequently exercised by an instrument abstracted in the abstract furnished to the purchaser; or

(*b*) require any information, or make any requisition, objection, or inquiry, with respect to any such deed, will, or document, or the title prior to that time, notwithstanding that any such deed, will, or other document, or that prior title, is recited, agreed to be produced, or noticed;

and he shall assume, unless the contrary appears, that the recitals, contained in the abstracted instruments, of any deed, will, or other document, forming part of that prior title, are correct, and give all the material contents of the deed, will, or other document so recited, and that every document so recited was duly executed by all necessary parties, and perfected, if and as required, by fine, recovery, acknowledgment, inrolment, or otherwise:

Provided that this subsection shall not deprive a purchaser of the right to require the production, or an abstract or copy of—

(i) any power of attorney under which any abstracted document is executed; or

(ii) any document creating or disposing of an interest, power or obligation which is not shown to have ceased or expired, and subject to which any part of the property is disposed of by an abstracted document; or

(iii) any document creating any limitation or trust by reference to which any part of the property is disposed of by an abstracted document.

(2) Where land sold is held by lease (other than an under-lease), the purchaser shall assume, unless the contrary appears, that the lease was duly granted; and, on production of the receipt for the last payment due for rent under the lease before the date of actual completion of the purchase, he shall assume, unless the contrary appears, that all the covenants and provisions of the lease have been duly performed and observed up to the date of actual completion of the purchase.

(3) Where land sold is held by under-lease, the purchaser shall assume, unless the contrary appears, that the under-lease and every superior lease were duly granted; and, on production of the receipt for the last payment due for rent under the under-lease before the date of actual completion of the purchase, he shall assume, unless the contrary appears, that all the covenants and provisions of the under-lease have been duly performed and observed up to the date of actual completion of the purchase, and further that all rent due under every superior lease, and all the covenants and provisions of every superior lease, have been paid and duly performed and observed up to that date.

(4) On a sale of any property, the following expenses shall be borne by the purchaser where he requires them to be incurred for the purpose of verifying the abstract or any other purpose, that is to say—

(*a*) the expenses of the production and inspection of all Acts of Parliament, inclosure awards, records, proceedings of courts, court rolls, deeds, wills, probates, letters of administration, and other documents, not in the possession of the vendor or his mortgagee or trustee, and the

expenses of all journeys incidental to such production or inspection; and

(*b*) the expenses of searching for, procuring, making, verifying, and producing all certificates, declarations, evidences, and information not in the possession of the vendor or his mortgagee or trustee, and all attested, stamped, office, or other copies or abstracts of, or extracts from, any Acts of Parliament or other documents aforesaid, not in the possession of the vendor or his mortgagee or trustee;

and where the vendor or his mortgagee or trustee retains possession of any document, the expenses of making any copy thereof, attested or unattested, which a purchaser requires to be delivered to him, shall be borne by that purchaser.

(5) On a sale of any property in lots, a purchaser of two or more lots, held wholly or partly under the same title, shall not have a right to more than one abstract of the common title, except at his own expense.

(6) Recitals, statements, and descriptions of facts, matters, and parties contained in deeds, instruments, Acts of Parliament, or statutory declarations, twenty years old at the date of the contract, shall, unless and except so far as they may be proved to be inaccurate, be taken to be sufficient evidence of the truth of such facts, matters, and descriptions.

(7) The inability of a vendor to furnish a purchaser with an acknowledgment of his right to production and delivery of copies of documents of title or with a legal covenant to produce and furnish copies of documents of title shall not be an objection to title in case the purchaser will, on the completion of the contract, have an equitable right to the production of such documents.

(8) Such acknowledgments of the right of production or covenants for production and such undertakings or covenants for safe custody of documents as the purchaser can and does require shall be furnished or made at his expense, and the vendor shall bear the expense of perusal and execution on behalf of and by himself, and on behalf of and by necessary parties other than the purchaser.

(9) A vendor shall be entitled to retain documents of title where—

(*a*) he retains any part of the land to which the documents relate; or

(*b*) the document consists of a trust instrument or other instrument creating a trust which is still subsisting, or an instrument relating to the appointment or discharge of a trustee of a subsisting trust.

(10) This section applies to contracts for sale made before or after the commencement of this Act, and applies to contracts for exchange in like manner as to contracts for sale, except that it applies only to contracts for exchange made after such commencement:

Provided that this section shall apply subject to any stipulation or contrary intention expressed in the contract.

(11) Nothing in this section shall be construed as binding a purchaser to complete his purchase in any case where, on a contract made independently of this section, and containing stipulations similar to the provisions of this section, or any of them, specific performance of the contract would not be enforced against him by the court.

Forms of contracts and conditions of sale.

46. The Lord Chancellor may from time to time prescribe and publish forms of contracts and conditions of sale of land, and the forms so prescribed shall, subject to any modification, or any stipulation or intention to the contrary, expressed in the correspondence, apply to contracts by correspondence, and may, but only by express reference thereto, be made to apply to any other cases for which the forms are made available.

~ 1925 W. N. 297

Application of insurance money on completion of a sale or exchange.

47.—(1) Where after the date of any contract for sale or exchange of property, money becomes payable under any policy of insurance maintained by the vendor in respect of any damage to or destruction of property included in the contract, the money shall, on completion of the contract, be held or receivable by the vendor on behalf of the purchaser and paid by the vendor to the purchaser on completion of the sale or exchange, or so soon thereafter as the same shall be received by the vendor.

(2) This section applies only to contracts made after the commencement of this Act, and has effect subject to—

(*a*) any stipulation to the contrary contained in the contract,

(*b*) any requisite consents of the insurers,

(*c*) the payment by the purchaser of the proportionate part of the premium from the date of the contract.

(3) This section applies to a sale or exchange by an order of the court, as if—

(*a*) for references to the "vendor" there were substituted references to the "person bound by the order";

(*b*) for the reference to the completion of the contract there were substituted a reference to the payment of the purchase or equality money (if any) into court;

(*c*) for the reference to the date of the contract there were substituted a reference to the time when the contract becomes binding.

Stipulations preventing a purchaser, lessee, or underlessee from employing his own solicitor to be void.

48.—(1) Any stipulation made on the sale of any interest in land after the commencement of this Act to the effect that the conveyance to, or the registration of the title of, the purchaser shall be prepared or carried out at the expense of the purchaser by a solicitor appointed by or acting for the vendor, and any stipulation which might restrict a purchaser in the selection of a solicitor to act on his behalf in relation to any interest in land agreed to be purchased, shall be void; and, if a sale is effected by demise or subdemise, then, for the purposes of this subsection, the instrument required for giving effect to the transaction shall be deemed to be a conveyance:

Provided that nothing in this subsection shall affect any right reserved to a vendor to furnish a form of conveyance to a purchaser from which the draft can be prepared, or to charge a reasonable fee therefor, or, where a perpetual rentcharge is to be reserved as the only consideration in money or money's worth, the right of a vendor to stipulate that the draft conveyance is to be prepared by his solicitor at the expense of the purchaser.

(2) Any covenant or stipulation contained in, or entered into with reference to any lease or underlease made before or after the commencement of this Act—

(*a*) whereby the right of preparing, at the expense of a purchaser, any conveyance of the estate or interest of the lessee or underlessee in the demised premises or in any part thereof, or of otherwise carrying out, at the expense of the purchaser, any dealing with such estate or interest, is expressed to be reserved to or vested in the lessor or underlessor or his solicitor ; or

(*b*) which in any way restricts the right of the purchaser to have such conveyance carried out on his behalf by a solicitor appointed by him ;

shall be void :

Provided that, where any covenant or stipulation is rendered void by this subsection, there shall be implied in lieu thereof a covenant or stipulation that the lessee or underlessee shall register with the lessor or his solicitor within six months from the date thereof, or as soon after the expiration of that period as may be practicable, all conveyances and devolutions (including probates or letters of administration) affecting the lease or underlease and pay a fee of one guinea in respect of each registration, and the power of entry (if any) on breach of any covenant contained in the lease or underlease shall apply and extend to the breach of any covenant so to be implied.

(3) Save where a sale is effected by demise or subdemise, this section does not affect the law relating to the preparation of a lease or underlease or the draft thereof.

(4) In this section " lease " and " underlease " include any agreement therefor or other tenancy, and " lessee " and " underlessee " and " lessor " and " underlessor " have corresponding meanings.

Applications to the court by vendor and purchaser.

49.—(1) A vendor or purchaser of any interest in land, or their representatives respectively, may apply in a summary way to the court, in respect of any requisitions or objections, or any claim for compensation, or any other question arising out of or connected with the contract (not being a question affecting the existence or validity of the contract), and the court may make such order upon the application as to the court may

appear just, and may order how and by whom all or any of the costs of and incident to the application are to be borne and paid.

(2) Where the court refuses to grant specific performance of a contract, or in any action for the return of a deposit, the court may, if it thinks fit, order the repayment of any deposit.

(3) This section applies to a contract for the sale or exchange of any interest in land.

Discharge of incumbrances by the court on sales or exchanges.

50.—(1) Where land subject to any incumbrance, whether immediately realisable or payable or not, is sold or exchanged by the court, or out of court, the court may, if it thinks fit, on the application of any party to the sale or exchange, direct or allow payment into court of such sum as is hereinafter mentioned, that is to say—

(*a*) in the case of an annual sum charged on the land, or of a capital sum charged on a determinable interest in the land, the sum to be paid into court shall be of such amount as, when invested in Government securities, the court considers will be sufficient, by means of the dividends thereof, to keep down or otherwise provide for that charge; and

(*b*) in any other case of capital money charged on the land, the sum to be paid into court shall be of an amount sufficient to meet the incumbrance and any interest due thereon;

but in either case there shall also be paid into court such additional amount as the court considers will be sufficient to meet the contingency of further costs, expenses and interest, and any other contingency, except depreciation of investments, not exceeding one-tenth part of the original amount to be paid in, unless the court for special reason thinks fit to require a larger additional amount.

(2) Thereupon, the court may, if it thinks fit, and either after or without any notice to the incumbrancer, as the court thinks fit, declare the land to be freed from the incumbrance, and make any order for conveyance, or vesting order, proper for giving effect to the sale or exchange, and give directions for the retention and investment of the money in court and for the payment or application of the income thereof.

(3) The court may declare all other land, if any, affected by the incumbrance (besides the land sold or

exchanged) to be freed from the incumbrance, and this power may be exercised either after or without notice to the incumbrancer, and notwithstanding that on a previous occasion an order, relating to the same incumbrance, has been made by the court which was confined to the land then sold or exchanged.

(4) On any application under this section the court may, if it thinks fit, as respects any vendor or purchaser, dispense with the service of any notice which would otherwise be required to be served on the vendor or purchaser.

(5) After notice served on the persons interested in or entitled to the money or fund in court, the court may direct payment or transfer thereof to the persons entitled to receive or give a discharge for the same, and generally may give directions respecting the application or distribution of the capital or income thereof.

(6) This section applies to sales or exchanges whether made before or after the commencement of this Act, and to incumbrances whether created by statute or otherwise.

Conveyances and other Instruments.

Lands lie in grant only.

51.—(1) All lands and all interests therein lie in grant and are incapable of being conveyed by livery or livery and seisin, or by feoffment, or by bargain and sale; and a conveyance of an interest in land may operate to pass the possession or right to possession thereof, without actual entry, but subject to all prior rights thereto.

(2) The use of the word grant is not necessary to convey land or to create any interest therein.

Conveyances to be by deed.

52.—(1) All conveyances of land or of any interest therein are void for the purpose of conveying or creating a legal estate unless made by deed.

(2) This section does not apply to—

(*a*) assents by a personal representative;

(*b*) disclaimers made in accordance with section fifty-four of the Bankruptcy Act, 1914, or not required to be evidenced in writing;

(*c*) surrenders by operation of law, including surrenders which may, by law, be effected without writing;

(*d*) leases or tenancies or other assurances not required by law to be made in writing;

(*e*) receipts not required by law to be under seal;
(*f*) vesting orders of the court or other competent authority;
(*g*) conveyances taking effect by operation of law.

Instruments required to be in writing.

53.—(1) Subject to the provisions hereinafter contained with respect to the creation of interests in land by parol—

(*a*) no interest in land can be created or disposed of except by writing signed by the person creating or conveying the same, or by his agent thereunto lawfully authorised in writing, or by will, or by operation of law;
(*b*) a declaration of trust respecting any land or any interest therein must be manifested and proved by some writing signed by some person who is able to declare such trust or by his will;
(*c*) a disposition of an equitable interest or trust subsisting at the time of the disposition, must be in writing signed by the person disposing of the same, or by his agent thereunto lawfully authorised in writing or by will.

(2) This section does not affect the creation or operation of resulting, implied or constructive trusts.

Creation of interests in land by parol.

54.—(1) All interests in land created by parol and not put in writing and signed by the persons so creating the same, or by their agents thereunto lawfully authorised in writing, have, notwithstanding any consideration having been given for the same, the force and effect of interests at will only.

(2) Nothing in the foregoing provisions of this Part of this Act shall affect the creation by parol of leases taking effect in possession for a term not exceeding three years (whether or not the lessee is given power to extend the term) at the best rent which can be reasonably obtained without taking a fine.

Savings in regard to last two sections.

55. Nothing in the last two foregoing sections shall—

(*a*) invalidate dispositions by will; or
(*b*) affect any interest validly created before the commencement of this Act; or
(*c*) affect the right to acquire an interest in land by virtue of taking possession; or
(*d*) affect the operation of the law relating to part performance.

Persons taking who are not parties and as to indentures.

56.—(1) A person may take an immediate or other interest in land or other property, or the benefit of any condition, right of entry, covenant or agreement over or respecting land or other property, although he may not be named as a party to the conveyance or other instrument.

(2) A deed between parties, to effect its objects, has the effect of an indenture though not indented or expressed to be an indenture.

Description of deeds.

57. Any deed, whether or not being an indenture, may be described (at the commencement thereof or otherwise) as a deed simply, or as a conveyance, deed of exchange, vesting deed, trust instrument, settlement, mortgage, charge, transfer of mortgage, appointment, lease or otherwise according to the nature of the transaction intended to be effected.

Provisions as to supplemental instruments.

58. Any instrument (whether executed before or after the commencement of this Act) expressed to be supplemental to a previous instrument, shall, as far as may be, be read and have effect as if the supplemental instrument contained a full recital of the previous instrument, but this section does not operate to give any right to an abstract or production of any such previous instrument, and a purchaser may accept the same evidence that the previous instrument does not affect the title as if it had merely been mentioned in the supplemental instrument.

Conditions and certain covenants not implied.

59.—(1) An exchange or other conveyance of land made by deed after the first day of October, eighteen hundred and forty-five, does not imply any condition in law.

(2) The word "give" or "grant" does not, in a deed made after the date last aforesaid, imply any covenant in law, save where otherwise provided by statute.

Abolition of technicalities in regard to conveyances and deeds.

60.—(1) A conveyance of freehold land to any person without words of limitation, or any equivalent expression, shall pass to the grantee the fee simple or other the whole interest which the grantor had power to convey in such land, unless a contrary intention appears in the conveyance.

(2) A conveyance of freehold land to a corporation sole by his corporate designation without the word

" successors " shall pass to the corporation the fee simple or other the whole interest which the grantor had power to convey in such land, unless a contrary intention appears in the conveyance.

(3) In a voluntary conveyance a resulting trust for the grantor shall not be implied merely by reason that the property is not expressed to be conveyed for the use or benefit of the grantee.

(4) The foregoing provisions of this section apply only to conveyances and deeds executed after the commencement of this Act:

Provided that in a deed executed after the thirty-first day of December, eighteen hundred and eighty-one, it is sufficient—

(*a*) In the limitation of an estate in fee simple, to use the words " in fee simple," without the word " heirs ";

(*b*) In the limitation of an estate tail, to use the words " in tail " without the words " heirs of the body "; and

(*c*) In the limitation of an estate in tail male or in tail female, to use the words " in tail male " or " in tail female," as the case requires, without the words " heirs male of the body," or " heirs female of the body."

Construction of expressions used in deeds and other instruments.

61. In all deeds, contracts, wills, orders and other instruments executed, made or coming into operation after the commencement of this Act, unless the context otherwise requires—

(*a*) " Month " means calendar month;

(*b*) " Person " includes a corporation;

(*c*) The singular includes the plural and vice versâ;

(*d*) The masculine includes the feminine and vice versâ.

General words implied in conveyances.

62.—(1) A conveyance of land shall be deemed to include and shall by virtue of this Act operate to convey, with the land, all buildings, erections, fixtures, commons, hedges, ditches, fences, ways, waters, watercourses, liberties, privileges, easements, rights, and advantages whatsoever, appertaining or reputed to appertain

to the land, or any part thereof, or, at the time of conveyance, demised, occupied, or enjoyed with, or reputed or known as part or parcel of or appurtenant to the land or any part thereof.

(2) A conveyance of land, having houses or other buildings thereon, shall be deemed to include and shall by virtue of this Act operate to convey, with the land, houses, or other buildings, all outhouses, erections, fixtures, cellars, areas, courts, courtyards, cisterns, sewers, gutters, drains, ways, passages, lights, watercourses, liberties, privileges, easements, rights, and advantages whatsoever, appertaining or reputed to appertain to the land, houses, or other buildings conveyed, or any of them, or any part thereof, or, at the time of conveyance, demised, occupied, or enjoyed with, or reputed or known as part or parcel of or appurtenant to, the land, houses, or other buildings conveyed, or any of them, or any part thereof.

(3) A conveyance of a manor shall be deemed to include and shall by virtue of this Act operate to convey, with the manor, all pastures, feedings, wastes, warrens, commons, mines, minerals, quarries, furzes, trees, woods, underwoods, coppices, and the ground and soil thereof, fishings, fisheries, fowlings, courts leet, courts baron, and other courts, view of frankpledge and all that to view of frankpledge doth belong, mills, mulctures, customs, tolls, duties, reliefs, heriots, fines, sums of money, amerciaments, waifs, estrays, chief-rents, quitrents, rentscharge, rents seck, rents of assize, fee farm rents, services, royalties jurisdictions, franchises, liberties, privileges, easements, profits, advantages, rights, emoluments, and hereditaments whatsoever, to the manor appertaining or reputed to appertain, or, at the time of conveyance, demised, occupied, or enjoyed with the same, or reputed or known as part, parcel, or member thereof.

For the purposes of this subsection the right to compensation for manorial incidents on the extinguishment thereof shall be deemed to be a right appertaining to the manor.

(4) This section applies only if and as far as a contrary intention is not expressed in the conveyance, and has effect subject to the terms of the conveyance and to the provisions therein contained.

(5) This section shall not be construed as giving to any person a better title to any property, right, or thing in this section mentioned than the title which the conveyance gives to him to the land or manor expressed to be conveyed, or as conveying to him any property, right, or thing in this section mentioned, further or otherwise than as the same could have been conveyed to him by the conveying parties.

(6) This section applies to conveyances made after the thirty-first day of December, eighteen hundred and eighty-one.

All estate clause implied.

63.—(1) Every conveyance is effectual to pass all the estate, right, title, interest, claim, and demand which the conveying parties respectively have, in, to, or on the property conveyed, or expressed or intended so to be, or which they respectively have power to convey in, to, or on the same.

(2) This section applies only if and as far as a contrary intention is not expressed in the conveyance, and has effect subject to the terms of the conveyance and to the provisions therein contained.

(3) This section applies to conveyances made after the thirty-first day of December, eighteen hundred and eighty-one.

Production and safe custody of documents.

64.—(1) Where a person retains possession of documents, and gives to another an acknowledgment in writing of the right of that other to production of those documents, and to delivery of copies thereof (in this section called an acknowledgment), that acknowledgment shall have effect as in this section provided.

(2) An acknowledgment shall bind the documents to which it relates in the possession or under the control of the person who retains them, and in the possession or under the control of every other person having possession or control thereof from time to time, but shall bind each individual possessor or person as long only as he has possession or control thereof; and every person so having possession or control from time to time shall be bound specifically to perform the obligations imposed under this section by an acknowledgment, unless prevented from so doing by fire or other inevitable accident.

(3) The obligations imposed under this section by an acknowledgment are to be performed from time to time at the request in writing of the person to whom an acknowledgment is given, or of any person, not being a lessee at a rent, having or claiming any estate, interest, or right through or under that person, or otherwise becoming through or under that person interested in or affected by the terms of any document to which the acknowledgment relates.

(4) The obligations imposed under this section by an acknowledgment are—

(i) An obligation to produce the documents or any of them at all reasonable times for the purpose of inspection, and of comparison with abstracts or copies thereof, by the person entitled to request production or by any person by him authorised in writing; and

(ii) An obligation to produce the documents or any of them at any trial, hearing, or examination in any court, or in the execution of any commission, or elsewhere in the United Kingdom, on any occasion on which production may properly be required, for proving or supporting the title or claim of the person entitled to request production, or for any other purpose relative to that title or claim; and

(iii) An obligation to deliver to the person entitled to request the same true copies or extracts, attested or unattested, of or from the documents or any of them.

(5) All costs and expenses of or incidental to the specific performance of any obligation imposed under this section by an acknowledgment shall be paid by the person requesting performance.

(6) An acknowledgment shall not confer any right to damages for loss or destruction of, or injury to, the documents to which it relates, from whatever cause arising.

(7) Any person claiming to be entitled to the benefit of an acknowledgment may apply to the court for an

order directing the production of the documents to which it relates, or any of them, or the delivery of copies of or extracts from those documents or any of them to him, or some person on his behalf; and the court may, if it thinks fit, order production, or production and delivery, accordingly, and may give directions respecting the time, place, terms, and mode of production or delivery, and may make such order as it thinks fit respecting the costs of the application, or any other matter connected with the application.

(8) An acknowledgment shall by virtue of this Act satisfy any liability to give a covenant for production and delivery of copies of or extracts from documents.

(9) Where a person retains possession of documents and gives to another an undertaking in writing for safe custody thereof, that undertaking shall impose on the person giving it, and on every person having possession or control of the documents from time to time, but on each individual possessor or person as long only as he has possession or control thereof, an obligation to keep the documents safe, whole, uncancelled, and undefaced, unless prevented from so doing by fire or other inevitable accident.

(10) Any person claiming to be entitled to the benefit of such an undertaking may apply to the court to assess damages for any loss or destruction of, or injury to, the documents or any of them, and the court may, if it thinks fit, direct an inquiry respecting the amount of damages, and order payment thereof by the person liable, and may make such order as it thinks fit respecting the costs of the application, or any other matter connected with the application.

(11) An undertaking for safe custody of documents shall by virtue of this Act satisfy any liability to give a covenant for safe custody of documents.

(12) The rights conferred by an acknowledgment or an undertaking under this section shall be in addition to all such other rights relative to the production, or inspection, or the obtaining of copies of documents, as are not, by virtue of this Act, satisfied by the giving of the acknowledgment or undertaking, and shall have effect subject

to the terms of the acknowledgment or undertaking, and to any provisions therein contained.

(13) This section applies only if and as far as a contrary intention is not expressed in the acknowledgment or undertaking.

(14) This section applies to an acknowledgment or undertaking given, or a liability respecting documents incurred, after the thirty-first day of December, eighteen hundred and eighty-one.

Reservation of legal estates.

65.—(1) A reservation of a legal estate shall operate at law without any execution of the conveyance by the grantee of the legal estate out of which the reservation is made, or any regrant by him, so as to create the legal estate reserved, and so as to vest the same in possession in the person (whether being the grantor or not) for whose benefit the reservation is made.

(2) A conveyance of a legal estate expressed to be made subject to another legal estate not in existence immediately before the date of the conveyance, shall operate as a reservation, unless a contrary intention appears.

(3) This section applies only to reservations made after the commencement of this Act.

Confirmation of past transactions.

66.—(1) A deed containing a declaration by the estate owner that his estate shall go and devolve in such a manner as may be requisite for confirming any interests intended to affect his estate and capable under this Act of subsisting as legal estates which, at some prior date, were expressed to have been transferred or created, and any dealings therewith which would have been legal if those interests had been legally and validly transferred or created, shall, to the extent of the estate of the estate owner, but without prejudice to the restrictions imposed by this Act in the case of mortgages, operate to give legal effect to the interests so expressed to have been transferred or created and to the subsequent dealings aforesaid.

(2) The powers conferred by this section may be exercised by a tenant for life or statutory owner, trustee for sale or a personal representative (being in each case

an estate owner) as well as by an absolute owner, but if exercised by any person, other than an absolute owner, only with the leave of the court.

(3) This section applies only to deeds containing such a declaration as aforesaid if executed after the commencement of this Act.

Receipt in deed sufficient.

67.—(1) A receipt for consideration money or securities in the body of a deed shall be a sufficient discharge for the same to the person paying or delivering the same, without any further receipt for the same being indorsed on the deed.

(2) This section applies to deeds executed after the thirty-first day of December, eighteen hundred and eighty-one.

Receipt in deed or indorsed evidence.

68.—(1) A receipt for consideration money or other consideration in the body of a deed or indorsed thereon shall, in favour of a subsequent purchaser, not having notice that the money or other consideration thereby acknowledged to be received was not in fact paid or given, wholly or in part, be sufficient evidence of the payment or giving of the whole amount thereof.

(2) This section applies to deeds executed after the thirty-first day of December, eighteen hundred and eighty-one.

Receipt in deed or indorsed authority for payment to solicitor.

69.—(1) Where a solicitor produces a deed, having in the body thereof or indorsed thereon a receipt for consideration money or other consideration, the deed being executed, or the indorsed receipt being signed, by the person entitled to give a receipt for that consideration, the deed shall be a sufficient authority to the person liable to pay or give the same for his paying or giving the same to the solicitor, without the solicitor producing any separate or other direction or authority in that behalf from the person who executed or signed the deed or receipt.

(2) This section applies whether the consideration was paid or given before or after the commencement of this Act.

Partial release of security from rentcharge.

70.—(1) A release from a rentcharge of part of the land charged therewith does not extinguish the whole rentcharge, but operates only to bar the right to recover any part of the rentcharge out of the land released, without prejudice to the rights of any persons interested in the land remaining unreleased, and not concurring in or confirming the release.

(2) This section applies to releases made after the twelfth day of August, eighteen hundred and fifty-nine.

Release of part of land affected from a judgment.

71.—(1) A release from a judgment (including any writ or order imposing a charge) of part of any land charged therewith does not affect the validity of the judgment as respects any land not specifically released.

(2) This section operates without prejudice to the rights of any persons interested in the property remaining unreleased and not concurring in or confirming the release.

(3) This section applies to releases made after the twelfth day of August, eighteen hundred and fifty-nine.

Conveyances by a person to himself, &c.

72.—(1) In conveyances made after the twelfth day of August, eighteen hundred and fifty-nine, personal property, including chattels real, may be conveyed by a person to himself jointly with another person by the like means by which it might be conveyed by him to another person.

(2) In conveyances made after the thirty-first day of December, eighteen hundred and eighty-one, freehold land, or a thing in action, may be conveyed by a person to himself jointly with another person, by the like means by which it might be conveyed by him to another person; and may, in like manner, be conveyed by a husband to his wife, and by a wife to her husband, alone or jointly with another person.

(3) After the commencement of this Act a person may convey land to or vest land in himself.

(4) Two or more persons (whether or not being trustees or personal representatives) may convey, and shall be deemed always to have been capable of conveying, any property vested in them to any one or

more of themselves in like manner as they could have conveyed such property to a third party; provided that if the persons in whose favour the conveyance is made are, by reason of any fiduciary relationship or otherwise, precluded from validly carrying out the transaction, the conveyance shall be liable to be set aside.

Execution of deeds by an individual.

73.—(1) Where an individual executes a deed, he shall either sign or place his mark upon the same and sealing alone shall not be deemed sufficient.

(2) This section applies only to deeds executed after the commencement of this Act.

Execution of instruments by or on behalf of corporations.

74.—(1) In favour of a purchaser a deed shall be deemed to have been duly executed by a corporation aggregate if its seal be affixed thereto in the presence of and attested by its clerk, secretary or other permanent officer or his deputy, and a member of the board of directors, council or other governing body of the corporation, and where a seal purporting to be the seal of a corporation has been affixed to a deed, attested by persons purporting to be persons holding such offices as aforesaid, the deed shall be deemed to have been executed in accordance with the requirements of this section, and to have taken effect accordingly.

(2) The board of directors, council or other governing body of a corporation aggregate may, by resolution or otherwise, appoint an agent either generally or in any particular case, to execute on behalf of the corporation any agreement or other instrument not under seal in relation to any matter within the powers of the corporation.

(3) Where a person is authorised under a power of attorney or under any statutory or other power to convey any interest in property in the name or on behalf of a corporation sole or aggregate, he may as attorney execute the conveyance by signing the name of the corporation in the presence of at least one witness, and in the case of a deed by affixing his own seal, and such execution shall take effect and be valid in like manner as if the corporation had executed the conveyance.

(4) Where a corporation aggregate is authorised under a power of attorney or under any statutory or other

power to convey any interest in property in the name or on behalf of any other person (including another corporation), an officer appointed for that purpose by the board of directors, council or other governing body of the corporation by resolution or otherwise, may execute the deed or other instrument in the name of such other person; and where an instrument appears to be executed by an officer so appointed, then in favour of a purchaser the instrument shall be deemed to have been executed by an officer duly authorised.

(5) The foregoing provisions of this section apply to transactions wherever effected, but only to deeds and instruments executed after the commencement of this Act, except that, in the case of powers or appointments of an agent or officer, they apply whether the power was conferred or the appointment was made before or after the commencement of this Act or by this Act.

(6) Notwithstanding anything contained in this section, any mode of execution or attestation authorised by law or by practice or by the statute, charter, memorandum or articles, deed of settlement or other instrument constituting the corporation or regulating the affairs thereof, shall (in addition to the modes authorised by this section) be as effectual as if this section had not been passed.

Rights of purchaser as to execution.

75.—(1) On a sale, the purchaser shall not be entitled to require that the conveyance to him be executed in his presence, or in that of his solicitor, as such; but shall be entitled to have, at his own cost, the execution of the conveyance attested by some person appointed by him, who may, if he thinks fit, be his solicitor.

(2) This section applies to sales made after the thirty-first day of December, eighteen hundred and eighty-one.

Covenants.

Covenants for title.

76.—(1) In a conveyance there shall, in the several cases in this section mentioned, be deemed to be included, and there shall in those several cases, by virtue of this Act, be implied, a covenant to the effect in this section stated, by the person or by each person who conveys, as far as regards the subject-matter or share of subject-matter expressed to be conveyed by him, with the person,

if one, to whom the conveyance is made, or with the persons jointly, if more than one, to whom the conveyance is made as joint tenants, or with each of the persons, if more than one, to whom the conveyance is (when the law permits) made as tenants in common, that is to say:

(A) In a conveyance for valuable consideration, other than a mortgage, a covenant by a person who conveys and is expressed to convey as beneficial owner in the terms set out in Part I. of the Second Schedule to this Act;

(B) In a conveyance of leasehold property for valuable consideration, other than a mortgage, a further covenant by a person who conveys and is expressed to convey as beneficial owner in the terms set out in Part II. of the Second Schedule to this Act;

(C) In a conveyance by way of mortgage (including a charge) a covenant by a person who conveys or charges and is expressed to convey or charge as beneficial owner in the terms set out in Part III. of the Second Schedule to this Act;

(D) In a conveyance by way of mortgage (including a charge) of freehold property subject to a rent or of leasehold property, a further covenant by a person who conveys or charges and is expressed to convey or charge as beneficial owner in the terms set out in Part IV. of the Second Schedule to this Act;

(E) In a conveyance by way of settlement, a covenant by a person who conveys and is expressed to convey as settlor in the terms set out in Part V. of the Second Schedule to this Act;

(F) In any conveyance, a covenant by every person who conveys and is expressed to convey as trustee or mortgagee, or as personal representative of a deceased person, or as committee of a lunatic or as receiver of a defective, or under an order of the court, in the terms set out in Part VI. of the Second Schedule to this Act, which covenant shall be deemed to extend to every such person's own acts only, and may be implied in an assent by a personal representative in like manner as in a conveyance by deed.

(2) Where in a conveyance it is expressed that by direction of a person expressed to direct as beneficial owner another person conveys, then, for the purposes of this section, the person giving the direction, whether he conveys and is expressed to convey as beneficial owner or not, shall be deemed to convey and to be expressed to convey as beneficial owner the subject-matter so conveyed by his direction; and a covenant on his part shall be implied accordingly.

(3) Where a wife conveys and is expressed to convey as beneficial owner, and the husband also conveys and is expressed to convey as beneficial owner, then, for the purposes of this section, the wife shall be deemed to convey and to be expressed to convey by direction of the husband, as beneficial owner; and, in addition to the covenant implied on the part of the wife, there shall also be implied, first, a covenant on the part of the husband as the person giving that direction, and secondly, a covenant on the part of the husband in the same terms as the covenant implied on the part of the wife.

(4) Where in a conveyance a person conveying is not expressed to convey as beneficial owner, or as settlor, or as trustee, or as mortgagee, or as personal representative of a deceased person, or as committee of a lunatic or as receiver of a defective, or under an order of the court, or by direction of a person as beneficial owner, no covenant on the part of the person conveying shall be, by virtue of this section, implied in the conveyance.

(5) In this section a conveyance does not include a demise by way of lease at a rent, but does include a charge and "convey" has a corresponding meaning.

(6) The benefit of a covenant implied as aforesaid shall be annexed and incident to, and shall go with, the estate or interest of the implied covenantee, and shall be capable of being enforced by every person in whom that estate or interest is, for the whole or any part thereof, from time to time vested.

(7) A covenant implied as aforesaid may be varied or extended by a deed or an assent, and, as so varied or extended, shall, as far as may be, operate in the like manner, and with all the like incidents, effects, and

consequences, as if such variations or extensions were directed in this section to be implied.

(8) This section applies to conveyances made after the thirty-first day of December, eighteen hundred and eighty-one, but only to assents by a personal representative made after the commencement of this Act.

Implied covenants in conveyances subject to rents.

77.—(1) In addition to the covenants implied under the last preceding section, there shall in the several cases in this section mentioned, be deemed to be included and implied, a covenant to the effect in this section stated, by and with such persons as are hereinafter mentioned, that is to say:—

(A) In a conveyance for valuable consideration, other than a mortgage, of the entirety of the land affected by a rentcharge, a covenant by the grantee or joint and several covenants by the grantees, if more than one, with the conveying parties and with each of them, if more than one, in the terms set out in Part VII. of the Second Schedule to this Act. Where a rentcharge has been apportioned in respect of any land, with the consent of the owner of the rentcharge, the covenants in this paragraph shall be implied in the conveyance of that land in like manner as if the apportioned rentcharge were the rentcharge referred to, and the document creating the rentcharge related solely to that land:

(B) In a conveyance for valuable consideration, other than a mortgage, of part of land affected by a rentcharge, subject to a part of that rentcharge which has been or is by that conveyance apportioned (but in either case without the consent of the owner of the rentcharge) in respect of the land conveyed:—

(i) A covenant by the grantee of the land or joint and several covenants by the grantees, if more than one, with the conveying parties and with each of them, if more than

one, in the terms set out in paragraph (i) of Part VIII. of the Second Schedule to this Act;

(ii) A covenant by a person who conveys or is expressed to convey as beneficial owner, or joint and several covenants by the persons who so convey or are expressed to so convey, if at the date of the conveyance any part of the land affected by such rentcharge is retained, with the grantees of the land and with each of them (if more than one) in the terms set out in paragraph (ii) of Part VIII. of the Second Schedule to this Act:

(c) In a conveyance for valuable consideration, other than a mortgage, of the entirety of the land comprised in a lease, for the residue of the term or interest created by the lease, a covenant by the assignee or joint and several covenants by the assignees (if more than one) with the conveying parties and with each of them (if more than one) in the terms set out in Part IX. of the Second Schedule to this Act. Where a rent has been apportioned in respect of any land, with the consent of the lessor, the covenants in this paragraph shall be implied in the conveyance of that land in like manner as if the apportioned rent were the original rent reserved, and the lease related solely to that land:

(d) In a conveyance for valuable consideration, other than a mortgage, of part of the land comprised in a lease, for the residue of the term or interest created by the lease, subject to a part of the rent which has been or is by the conveyance apportioned (but in either case without the consent of the lessor) in respect of the land conveyed :—

(i) A covenant by the assignee of the land, or joint and several covenants by the assignees, if more than one, with the conveying parties and with each of them, if more than one, in the terms set out in para-

graph (i) of Part X. of the Second Schedule to this Act;

(ii) A covenant by a person who conveys or is expressed to convey as beneficial owner, or joint and several covenants by the persons who so convey or are expressed to so convey, if at the date of the conveyance any part of the land comprised in the lease is retained, with the assignees of the land and with each of them (if more than one) in the terms set out in paragraph (ii) of Part X. of the Second Schedule to this Act.

(2) Where in a conveyance for valuable consideration, other than a mortgage, part of land affected by a rentcharge, or part of land comprised in a lease is, without the consent of the owner of the rentcharge or of the lessor, as the case may be, expressed to be conveyed—

(i) subject to or charged with the entire rent—

then paragraph (B) (i) or (D) (i) of the last subsection, as the case may require, shall have effect as if the entire rent were the apportioned rent; or

(ii) discharged or exonerated from the entire rent—

then paragraph (B) (ii) or (D) (ii) of the last subsection, as the case may require, shall have effect as if the entire rent were the balance of the rent, and the words "other "than the covenant to pay the entire rent" had been omitted.

(3) In this section "conveyance" does not include a demise by way of lease at a rent.

(4) Any covenant which would be implied under this section by reason of a person conveying or being expressed to convey as beneficial owner may, by express reference to this section, be implied, with or without variation, in a conveyance, whether or not for valuable consideration, by a person who conveys or is expressed to convey as settlor, or as trustee, or as mortgagee, or as personal representative of a deceased person, or as committee of a lunatic, or as receiver of a defective, or under an order of the court.

(5) The benefit of a covenant implied as aforesaid shall be annexed and incident to, and shall go with, the

estate or interest of the implied covenantee, and shall be capable of being enforced by every person in whom that estate or interest is, for the whole or any part thereof, from time to time vested.

(6) A covenant implied as aforesaid may be varied or extended by deed, and, as so varied or extended, shall, as far as may be, operate in the like manner, and with all the like incidents, effects and consequences, as if such variations or extensions were directed in this section to be implied.

(7) In particular any covenant implied under this section may be extended by providing that—

(*a*) the land conveyed; or

(*b*) the part of the land affected by the rentcharge which remains vested in the covenantor; or

(*c*) the part of the land demised which remains vested in the covenantor;

shall, as the case may require, stand charged with the payment of all money which may become payable under the implied covenant.

(8) This section applies only to conveyances made after the commencement of this Act.

Benefit of covenants relating to land.

78.—(1) A covenant relating to any land of the covenantee shall be deemed to be made with the covenantee and his successors in title and the persons deriving title under him or them, and shall have effect as if such successors and other persons were expressed.

For the purposes of this subsection in connexion with covenants restrictive of the user of land "successors in title" shall be deemed to include the owners and occupiers for the time being of the land of the covenantee intended to be benefited.

(2) This section applies to covenants made after the commencement of this Act, but the repeal of section fifty-eight of the Conveyancing Act, 1881, does not affect the operation of covenants to which that section applied.

44 & 45 Vict. c. 41.

Burden of covenants

79.—(1) A covenant relating to any land of a covenantor or capable of being bound by him, shall,

unless a contrary intention is expressed, be deemed to be made by the covenantor on behalf of himself his successors in title and the persons deriving title under him or them, and, subject as aforesaid, shall have effect as if such successors and other persons were expressed. relating to land.

This subsection extends to a covenant to do some act relating to the land, notwithstanding that the subject-matter may not be in existence when the covenant is made.

(2) For the purposes of this section in connexion with covenants restrictive of the user of land "successors in title" shall be deemed to include the owners and occupiers for the time being of such land.

(3) This section applies only to covenants made after the commencement of this Act.

80.—(1) A covenant and a bond and an obligation or contract under seal made after the thirty-first day of December, eighteen hundred and eighty-one, binds the real estate as well as the personal estate of the person making the same if and so far as a contrary intention is not expressed in the covenant, bond, obligation, or contract. Covenants binding land.

This subsection extends to a covenant implied by virtue of this Act.

(2) Every covenant running with the land, whether entered into before or after the commencement of this Act, shall take effect in accordance with any statutory enactment affecting the devolution of the land, and accordingly the benefit or burden of every such covenant shall vest in or bind the persons who by virtue of any such enactment or otherwise succeed to the title of the covenantee or the covenantor, as the case may be.

(3) The benefit of a covenant relating to land entered into after the commencement of this Act may be made to run with the land without the use of any technical expression if the covenant is of such a nature that the benefit could have been made to run with the land before the commencement of this Act.

(4) For the purposes of this section, a covenant runs with the land when the benefit or burden of it, whether at law or in equity, passes to the successors in title of the covenantee or the covenantor, as the case may be.

Effect of covenant with two or more jointly.

81.—(1) A covenant, and a contract under seal, and a bond or obligation under seal, made with two or more jointly, to pay money or to make a conveyance, or to do any other act, to them or for their benefit, shall be deemed to include, and shall, by virtue of this Act, imply, an obligation to do the act to, or for the benefit of, the survivor or survivors of them, and to, or for the benefit of, any other person to whom the right to sue on the covenant, contract, bond, or obligation devolves, and where made after the commencement of this Act shall be construed as being also made with each of them.

(2) This section extends to a covenant implied by virtue of this Act.

(3) This section applies only if and as far as a contrary intention is not expressed in the covenant, contract, bond, or obligation, and has effect subject to the covenant, contract, bond, or obligation, and to the provisions therein contained.

(4) Except as otherwise expressly provided, this section applies to a covenant, contract, bond, or obligation made or implied after the thirty-first day of December, eighteen hundred and eighty-one.

Covenants and agreements entered into by a person with himself and another or others.

82.—(1) Any covenant, whether express or implied, or agreement entered into by a person with himself and one or more other persons shall be construed and be capable of being enforced in like manner as if the covenant or agreement had been entered into with the other person or persons alone.

(2) This section applies to covenants or agreements entered into before or after the commencement of this Act, and to covenants implied by statute in the case of a person who conveys or is expressed to convey to himself and one or more other persons, but without prejudice to any order of the court made before such commencement.

Construction of implied covenants.

83. In the construction of a covenant or proviso, or other provision, implied in a deed or assent by virtue of this Act, words importing the singular or plural number, or the masculine gender, shall be read as also importing the plural or singular number, or as extending to females, as the case may require.

Power to discharge or modify restrictive covenants affecting land.

84.—(1) The Authority hereinafter defined shall (without prejudice to any concurrent jurisdiction of the court) have power from time to time, on the application of any person interested in any freehold land affected by any restriction arising under covenant or otherwise as to the user thereof or the building thereon, by order wholly or partially to discharge or modify any such restriction (subject or not to the payment by the applicant of compensation to any person suffering loss in consequence of the order) on being satisfied—

(*a*) that by reason of changes in the character of the property or the neighbourhood or other circumstances of the case which the Authority may deem material, the restriction ought to be deemed obsolete, or that the continued existence thereof would impede the reasonable user of the land for public or private purposes without securing practical benefits to other persons, or, as the case may be, would unless modified so impede such user; or

(*b*) that the persons of full age and capacity for the time being or from time to time entitled to the benefit of the restriction, whether in respect of estates in fee simple or any lesser estates or interests in the property to which the benefit of the restriction is annexed, have agreed, either expressly or by implication, by their acts or omissions, to the same being discharged or modified; or

(*c*) that the proposed discharge or modification will not injure the persons entitled to the benefit of the restriction:

Provided that no compensation shall be payable in respect of the discharge or modification of a restriction by reason of any advantage thereby accruing to the owner of the land affected by the restriction, unless the person entitled to the benefit of the restriction also suffers loss in consequence of the discharge or modification, nor shall any compensation be payable in excess of such loss; but this provision shall not affect any right to compensation where the person claiming the compensation proves that by reason of the imposition of the restriction, the amount of the consideration paid for the acquisition of the land was reduced.

(2) The court shall have power on the application of any person interested—

(*a*) To declare whether or not in any particular case any freehold land is affected by a restriction imposed by any instrument; or

(*b*) To declare what, upon the true construction of any instrument purporting to impose a restriction, is the nature and extent of the restriction thereby imposed and whether the same is enforceable and if so by whom.

(3) The Authority shall, before making any order under this section, direct such enquiries, if any, to be made of any local authority, and such notices, if any, whether by way of advertisement or otherwise, to be given to such of the persons who appear to be entitled to the benefit of the restriction intended to be discharged, modified, or dealt with as, having regard to any enquiries notices or other proceedings previously made, given or taken, the Authority may think fit.

See the Land of Property (Restrictions on Covenants &c.) Rules 1925 1925 W. N. 439 and Fees Rules 1926 W. N. 36

(4) The Reference Committee mentioned in this section may make rules in relation to any applications to be made to the Authority under this section, and with the consent of the Treasury may prescribe the fees to be paid in connexion with any application to the Authority.

See R. S. C. 1925, 1925 W. N. 332

(5) Any order made under this section shall be binding on all persons, whether ascertained or of full age or capacity or not, then entitled or thereafter capable of becoming entitled to the benefit of any restriction, which is thereby discharged, modified, or dealt with, and whether such persons are parties to the proceedings or have been served with notice or not, but any order made by the Authority shall, in accordance with rules of court, be subject to appeal to the court.

(6) An order may be made under this section notwithstanding that any instrument which is alleged to impose the restriction intended to be discharged, modified, or dealt with, may not have been produced to the court or the Authority, and the court or the Authority may act on such evidence of that instrument as it may think sufficient.

(7) This section applies to restrictions whether subsisting at the commencement of this Act or imposed

thereafter, but this section does not apply where the restriction was imposed on the occasion of a disposition made gratuitously or for a nominal consideration for public purposes.

(8) This section applies whether the land affected by the restrictions is registered or not, but, in the case of registered land, the Land Registrar shall give effect on the register to any order under this section when made.

(9) Where any proceedings by action or otherwise are taken to enforce a restrictive covenant, any person against whom the proceedings are taken, may in such proceedings apply to the court for an order giving leave to apply to the Authority under this section, and staying the proceedings in the meantime.

(10) In this section "the Authority" means such one or more of the Official Arbitrators appointed for the purposes of the Acquisition of Land (Assessment of Compensation) Act, 1919, as may be selected by the Reference Committee under that Act. 9 & 10 Geo. 5. c. 57.

(11) This section does not apply to restrictions imposed by the Commissioners of Works under any statutory power for the protection of any Royal Park or Garden or to restrictions of a like character imposed upon the occasion of any enfranchisement effected before the commencement of this Act in any manor vested in His Majesty in right of the Crown or the Duchy of Lancaster, nor to restrictions created or imposed—

(*a*) for Naval, Military or Air Force purposes,

(*b*) for civil aviation purposes under the powers of the Air Navigation Act, 1920. 10 & 11 Geo. 5. c. 80.

(12) Where a term of more than seventy years is created in land (whether before or after the commencement of this Act) this section shall, after the expiration of fifty years of the term, apply to restrictions affecting such leasehold land in like manner as it would have applied had the land been freehold:

Provided that this subsection shall not apply to mining leases.

Part III.

Mortgages, Rentcharges, and Powers of Attorney.

Mortgages.

Mode of mortgaging freeholds.

85.—(1) A mortgage of an estate in fee simple shall only be capable of being effected at law either by a demise

for a term of years absolute, subject to a provision for cesser on redemption, or by a charge by deed expressed to be by way of legal mortgage:

Provided that a first mortgagee shall have the same right to the possession of documents as if his security included the fee simple.

(2) Any purported conveyance of an estate in fee simple by way of mortgage made after the commencement of this Act shall (to the extent of the estate of the mortgagor) operate as a demise of the land to the mortgagee for a term of years absolute, without impeachment for waste, but subject to cesser on redemption, in manner following, namely:—

(*a*) A first or only mortgagee shall take a term of three thousand years from the date of the mortgage:

(*b*) A second or subsequent mortgagee shall take a term (commencing from the date of the mortgage) one day longer than the term vested in the first or other mortgagee whose security ranks immediately before that of such second or subsequent mortgagee:

and, in this subsection, any such purported conveyance as aforesaid includes an absolute conveyance with a deed of defeasance and any other assurance which, but for this subsection, would operate in effect to vest the fee simple in a mortgagee subject to redemption.

15 Geo. 5. c. 21.

(3) This section applies whether or not the land is registered under the Land Registration Act, 1925, or the mortgage is expressed to be made by way of trust for sale or otherwise.

(4) Without prejudice to the provisions of this Act respecting legal and equitable powers, every power to mortgage or to lend money on mortgage of an estate in fee simple shall be construed as a power to mortgage the estate for a term of years absolute, without impeachment for waste, or by a charge by way of legal mortgage or to lend on such security.

Mode of mortgaging leaseholds.

86.—(1) A mortgage of a term of years absolute shall only be capable of being effected at law either by a subdemise for a term of years absolute, less by one day at least than the term vested in the mortgagor, and subject to a provision for cesser on redemption, or by a charge by deed expressed to be by way of legal mortgage;

and where a licence to subdemise by way of mortgage is required, such licence shall not be unreasonably refused:

Provided that a first mortgagee shall have the same right to the possession of documents as if his security had been effected by assignment.

(2) Any purported assignment of a term of years absolute by way of mortgage made after the commencement of this Act shall (to the extent of the estate of the mortgagor) operate as a subdemise of the leasehold land to the mortgagee for a term of years absolute, but subject to cesser on redemption, in manner following, namely:—

(*a*) The term to be taken by a first or only mortgagee shall be ten days less than the term expressed to be assigned:

(*b*) The term to be taken by a second or subsequent mortgagee shall be one day longer than the term vested in the first or other mortgagee whose security ranks immediately before that of the second or subsequent mortgagee, if the length of the last mentioned term permits, and in any case for a term less by one day at least than the term expressed to be assigned:

and, in this subsection, any such purported assignment as aforesaid includes an absolute assignment with a deed of defeasance and any other assurance which, but for this subsection, would operate in effect to vest the term of the mortgagor in a mortgagee subject to redemption.

(3) This section applies whether or not the land is registered under the Land Registration Act, 1925, or the mortgage is made by way of sub-mortgage of a term of years absolute, or is expressed to be by way of trust for sale or otherwise.

(4) Without prejudice to the provisions of this Act respecting legal and equitable powers, every power to mortgage for or to lend money on mortgage of a term of years absolute by way of assignment shall be construed as a power to mortgage the term by subdemise for a term of years absolute or by a charge by way of legal mortgage, or to lend on such security.

Charges by way of legal mortgage.

87.—(1) Where a legal mortgage of land is created by a charge by deed expressed to be by way of legal mortgage, the mortgagee shall have the same protection,

powers and remedies (including the right to take proceedings to obtain possession from the occupiers and the persons in receipt of rents and profits, or any of them) as if—

(*a*) where the mortgage is a mortgage of an estate in fee simple, a mortgage term for three thousand years without impeachment of waste had been thereby created in favour of the mortgagee; and

(*b*) where the mortgage is a mortgage of a term of years absolute, a sub-term less by one day than the term vested in the mortgagor had been thereby created in favour of the mortgagee.

(2) Where an estate vested in a mortgagee immediately before the commencement of this Act has by virtue of this Act been converted into a term of years absolute or sub-term, the mortgagee may, by a declaration in writing to that effect signed by him, convert the mortgage into a charge by way of legal mortgage, and in that case the mortgage term shall be extinguished in the inheritance or in the head term as the case may be, and the mortgagee shall have the same protection, powers and remedies (including the right to take proceedings to obtain possession from the occupiers and the persons in receipt of rents and profits or any of them) as if the mortgage term or sub-term had remained subsisting.

The power conferred by this subsection may be exercised by a mortgagee notwithstanding that he is a trustee or personal representative.

(3) Such declaration shall not affect the priority of the mortgagee or his right to retain possession of documents, nor affect his title to or right over any fixtures or chattels personal comprised in the mortgage.

Realisation of freehold mortgages.

88.—(1) Where an estate in fee simple has been mortgaged by the creation of a term of years absolute limited thereout or by a charge by way of legal mortgage and the mortgagee sells under his statutory or express power of sale—

(*a*) the conveyance by him shall operate to vest in the purchaser the fee simple in the land conveyed subject to any legal mortgage having priority to the mortgage in right of which the sale is made and to any money thereby secured, and thereupon;

(*b*) the mortgage term or the charge by way of legal mortgage and any subsequent mortgage term or charges shall merge or be extinguished as respects the land conveyed;

and such conveyance may, as respects the fee simple, be made in the name of the estate owner in whom it is vested.

(2) Where any such mortgagee obtains an order for foreclosure absolute, the order shall operate to vest the fee simple in him (subject to any legal mortgage having priority to the mortgage in right of which the foreclosure is obtained and to any money thereby secured), and thereupon the mortgage term, if any, shall thereby be merged in the fee simple, and any subsequent mortgage term or charge by way of legal mortgage bound by the order shall thereupon be extinguished.

(3) Where any such mortgagee acquires a title under the Limitation Acts, he, or the persons deriving title under him, may enlarge the mortgage term into a fee simple under the statutory power for that purpose discharged from any legal mortgage affected by the title so acquired, or in the case of a chargee by way of legal mortgage may by deed declare that the fee simple is vested in him discharged as aforesaid, and the same shall vest accordingly.

(4) Where the mortgage includes fixtures or chattels personal any statutory power of sale and any right to foreclose or take possession shall extend to the absolute or other interest therein affected by the charge.

(5) In the case of a sub-mortgage by subdemise of a long term (less a nominal period) itself limited out of an estate in fee simple, the foregoing provisions of this section shall operate as if the derivative term, if any, created by the sub-mortgage had been limited out of the fee simple, and so as to enlarge the principal term and extinguish the derivative term created by the sub-mortgage as aforesaid, and to enable the sub-mortgagee to convey the fee simple or acquire it by foreclosure, enlargement, or otherwise as aforesaid.

(6) This section applies to a mortgage whether created before or after the commencement of this Act, and to a mortgage term created by this Act, but does not operate to confer a better title to the fee simple

than would have been acquired if the same had been conveyed by the mortgage (being a valid mortgage) and the restrictions imposed by this Act in regard to the effect and creation of mortgages were not in force, and all prior mortgages (if any) not being merely equitable charges had been created by demise or by charge by way of legal mortgage.

Realisation of leasehold mortgages.

89.—(1) Where a term of years absolute has been mortgaged by the creation of another term of years absolute limited thereout or by a charge by way of legal mortgage and the mortgagee sells under his statutory or express power of sale,—

(*a*) the conveyance by him shall operate to convey to the purchaser not only the mortgage term, if any, but also (unless expressly excepted with the leave of the court) the leasehold reversion affected by the mortgage, subject to any legal mortgage having priority to the mortgage in right of which the sale is made and to any money thereby secured, and thereupon

(*b*) the mortgage term, or the charge by way of legal mortgage and any subsequent mortgage term or charge, shall merge in such leasehold reversion or be extinguished unless excepted as aforesaid;

and such conveyance may, as respects the leasehold reversion, be made in the name of the estate owner in whom it is vested.

Where a licence to assign is required on a sale by a mortgagee, such licence shall not be unreasonably refused.

(2) Where any such mortgagee obtains an order for foreclosure absolute, the order shall, unless it otherwise provides, operate (without giving rise to a forfeiture for want of a licence to assign) to vest the leasehold reversion affected by the mortgage and any subsequent mortgage term in him, subject to any legal mortgage having priority to the mortgage in right of which the foreclosure is obtained and to any money thereby secured, and thereupon the mortgage term and any subsequent mortgage term or charge by way of legal mortgage bound by the order shall, subject to any express provision to the contrary contained in the order, merge in such leasehold reversion or be extinguished.

(3) Where any such mortgagee acquires a title under the Limitation Acts, he, or the persons deriving title under him, may by deed declare that the leasehold reversion affected by the mortgage and any mortgage term affected by the title so acquired shall vest in him, free from any right of redemption which is barred, and the same shall (without giving rise to a forfeiture for want of a licence to assign) vest accordingly, and thereupon the mortgage term, if any, and any other mortgage term or charge by way of legal mortgage affected by the title so acquired shall, subject to any express provision to the contrary contained in the deed, merge in such leasehold reversion or be extinguished.

(4) Where the mortgage includes fixtures or chattels personal, any statutory power of sale and any right to foreclose or take possession shall extend to the absolute or other interest therein affected by the charge.

(5) In the case of a sub-mortgage by subdemise of a term (less a nominal period) itself limited out of a leasehold reversion, the foregoing provisions of this section shall operate as if the derivative term created by the sub-mortgage had been limited out of the leasehold reversion, and so as (subject as aforesaid) to merge the principal mortgage term therein as well as the derivative term created by the sub-mortgage and to enable the sub-mortgagee to convey the leasehold reversion or acquire it by foreclosure, vesting, or otherwise as aforesaid.

(6) This section takes effect without prejudice to any incumbrance or trust affecting the leasehold reversion which has priority over the mortgage in right of which the sale, foreclosure, or title is made or acquired, and applies to a mortgage whether executed before or after the commencement of this Act, and to a mortgage term created by this Act, but does not apply where the mortgage term does not comprise the whole of the land included in the leasehold reversion unless the rent (if any) payable in respect of that reversion has been apportioned as respects the land affected, or the rent is of no money value or no rent is reserved, and unless the lessee's covenants and conditions (if any) have been apportioned, either expressly or by implication, as respects the land affected.

Realisation of equitable charges by the court.

90.—(1) Where an order for sale is made by the court in reference to an equitable mortgage on land (not secured by a legal term of years absolute or by a charge by way of legal mortgage) the court may, in favour of a purchaser, make a vesting order conveying the land or may appoint a person to convey the land or create and vest in the mortgagee a legal term of years absolute to enable him to carry out the sale, as the case may require, in like manner as if the mortgage had been created by deed by way of legal mortgage pursuant to this Act, but without prejudice to any incumbrance having priority to the equitable mortgage unless the incumbrancer consents to the sale.

(2) This section applies to equitable mortgages made or arising before or after the commencement of this Act, but not to a mortgage which has been over-reached under the powers conferred by this Act or otherwise.

Sale of mortgaged property in action for redemption or foreclosure.

91.—(1) Any person entitled to redeem mortgaged property may have a judgment or order for sale instead of for redemption in an action brought by him either for redemption alone, or for sale alone, or for sale or redemption in the alternative.

(2) In any action, whether for foreclosure, or for redemption, or for sale, or for the raising and payment in any manner of mortgage money, the court, on the request of the mortgagee, or of any person interested either in the mortgage money or in the right of redemption, and, notwithstanding that—

(*a*) any other person dissents; or

(*b*) the mortgagee or any person so interested does not appear in the action;

and without allowing any time for redemption or for payment of any mortgage money, may direct a sale of the mortgaged property, on such terms as it thinks fit, including the deposit in court of a reasonable sum fixed by the court to meet the expenses of sale and to secure performance of the terms.

(3) But, in an action brought by a person interested in the right of redemption and seeking a sale, the court may, on the application of any defendant, direct the plaintiff to give such security for costs as the court thinks fit, and may give the conduct of the sale to any defendant, and may give such directions as it thinks fit respecting the costs of the defendants or any of them.

(4) In any case within this section the court may, if it thinks fit, direct a sale without previously determining the priorities of incumbrancers.

(5) This section applies to actions brought either before or after the commencement of this Act.

(6) In this section "mortgaged property" includes the estate or interest which a mortgagee would have had power to convey if the statutory power of sale were applicable.

(7) For the purposes of this section the court may, in favour of a purchaser, make a vesting order conveying the mortgaged property, or appoint a person to do so, subject or not to any incumbrance, as the court may think fit; or, in the case of an equitable mortgage, may create and vest a mortgage term in the mortgagee to enable him to carry out the sale as if the mortgage had been made by deed by way of legal mortgage.

Power to authorise land and minerals to be dealt with separately.

92. Where a mortgagee's power of sale in regard to land has become exercisable but does not extend to the purposes mentioned in this section, the court may, on his application, authorise him and the persons deriving title under him to dispose—

(*a*) of the land, with an exception or reservation of all or any mines and minerals, and with or without rights and powers of or incidental to the working, getting or carrying away of minerals; or

(*b*) of all or any mines and minerals, with or without the said rights or powers separately from the land;

and thenceforth the powers so conferred shall have effect as if the same were contained in the mortgage.

Restriction on consolidation of mortgages.

93.—(1) A mortgagor seeking to redeem any one mortgage is entitled to do so without paying any money due under any separate mortgage made by him, or by any person through whom he claims, solely on property other than that comprised in the mortgage which he seeks to redeem.

This subsection applies only if and as far as a contrary intention is not expressed in the mortgage deeds or one of them.

(2) This section does not apply where all the mortgages were made before the first day of January, eighteen hundred and eighty-two.

(3) Save as aforesaid, nothing in this Act, in reference to mortgages, affects any right of consolidation or renders inoperative a stipulation in relation to any mortgage made before or after the commencement of this Act reserving a right to consolidate.

Tacking and further advances.

94.—(1) After the commencement of this Act, a prior mortgagee shall have a right to make further advances to rank in priority to subsequent mortgages (whether legal or equitable)—

(*a*) if an arrangement has been made to that effect with the subsequent mortgagees; or

(*b*) if he had no notice of such subsequent mortgages at the time when the further advance was made by him; or

(*c*) whether or not he had such notice as aforesaid, where the mortgage imposes an obligation on him to make such further advances.

This subsection applies whether or not the prior mortgage was made expressly for securing further advances.

(2) In relation to the making of further advances after the commencement of this Act a mortgagee shall not be deemed to have notice of a mortgage merely by reason that it was registered as a land charge or in a local deeds registry, if it was not so registered at the date of the original advance or when the last search (if any) by or on behalf of the mortgagee was made, whichever last happened.

This subsection only applies where the prior mortgage was made expressly for securing a current account or other further advances.

(3) Save in regard to the making of further advances as aforesaid, the right to tack is hereby abolished:

Provided that nothing in this Act shall affect any priority acquired before the commencement of this Act by tacking, or in respect of further advances made without notice of a subsequent incumbrance or by arrangement with the subsequent incumbrancer.

(4) This section applies to mortgages of land made before or after the commencement of this Act, but not to charges registered under the Land Registration Act, 1925, or any enactment replaced by that Act.

Obligation to transfer instead of reconveying, and as to right to take possession.

95.—(1) Where a mortgagor is entitled to redeem, then subject to compliance with the terms on compliance with which he would be entitled to require a reconveyance or surrender, he shall be entitled to require the mortgagee, instead of re-conveying or surrendering, to assign the mortgage debt and convey the mortgaged property to any third person, as the mortgagor directs; and the mortgagee shall be bound to assign and convey accordingly.

(2) The rights conferred by this section belong to and are capable of being enforced by each incumbrancer, or by the mortgagor, notwithstanding any intermediate incumbrance; but a requisition of an incumbrancer prevails over a requisition of the mortgagor, and, as between incumbrancers, a requisition of a prior incumbrancer prevails over a requisition of a subsequent incumbrancer.

(3) The foregoing provisions of this section do not apply in the case of a mortgagee being or having been in possession.

(4) Nothing in this Act affects prejudicially the right of a mortgagee of land whether or not his charge is secured by a legal term of years absolute to take possession of the land, but the taking of possession by the mortgagee does not convert any legal estate of the mortgagor into an equitable interest.

(5) This section applies to mortgages made either before or after the commencement of this Act, and takes effect notwithstanding any stipulation to the contrary.

Regulations respecting inspection, production and delivery of documents, and priorities.

96.—(1) A mortgagor, as long as his right to redeem subsists, shall be entitled from time to time, at reasonable times, on his request, and at his own cost, and on payment of the mortgagee's costs and expenses in this behalf, to inspect and make copies or abstracts of or extracts from the documents of title relating to the mortgaged property in the custody or power of the mortgagee.

This section applies to mortgages made after the thirty-first day of December, eighteen hundred and eighty-one, and takes effect notwithstanding any stipulation to the contrary.

(2) A mortgagee, whose mortgage is surrendered or otherwise extinguished, shall not be liable on account of delivering documents of title in his possession to the person not having the best right thereto, unless he has notice of the right or claim of a person having a better right, whether by virtue of a right to require a surrender or re-conveyance or otherwise.

Priorities as between puisne mortgages.

97. Every mortgage affecting a legal estate in land made after the commencement of this Act, whether legal or equitable (not being a mortgage protected by the deposit of documents relating to the legal estate affected) shall rank according to its date of registration as a land charge pursuant to the Land Charges Act, 1925.

This subsection does not apply to mortgages or charges of registered land or of land within the jurisdiction of a local deeds registry.

Actions for possession by mortgagors.

98.—(1) A mortgagor for the time being entitled to the possession or receipt of the rents and profits of any land, as to which the mortgagee has not given notice of his intention to take possession or to enter into the receipt of the rents and profits thereof, may sue for such possession, or for the recovery of such rents or profits, or to prevent or recover damages in respect of any trespass or other wrong relative thereto, in his own name only, unless the cause of action arises upon a lease or other contract made by him jointly with any other person.

(2) This section does not prejudice the power of a mortgagor independently of this section to take proceedings in his own name only, either in right of any legal estate vested in him or otherwise.

(3) This section applies whether the mortgage was made before or after the commencement of this Act.

Leasing powers of mortgagor and mortgagee in possession.

99.—(1) A mortgagor of land while in possession shall, as against every incumbrancer, have power to make from time to time any such lease of the mortgaged land, or any part thereof, as is by this section authorised.

(2) A mortgagee of land while in possession shall, as against all prior incumbrancers, if any, and as against the mortgagor, have power to make from time to time any such lease as aforesaid.

(3) The leases which this section authorises are—

(i) agricultural or occupation leases for any term not exceeding twenty-one years, or, in the case of a mortgage made after the commencement of this Act, fifty years; and

(ii) building leases for any term not exceeding ninety-nine years, or, in the case of a mortgage made after the commencement of this Act, nine hundred and ninety-nine years.

(4) Every person making a lease under this section may execute and do all assurances and things necessary or proper in that behalf.

(5) Every such lease shall be made to take effect in possession not later than twelve months after its date.

(6) Every such lease shall reserve the best rent that can reasonably be obtained, regard being had to the circumstances of the case, but without any fine being taken.

(7) Every such lease shall contain a covenant by the lessee for payment of the rent, and a condition of re-entry on the rent not being paid within a time therein specified not exceeding thirty days.

(8) A counterpart of every such lease shall be executed by the lessee and delivered to the lessor, of which execution and delivery the execution of the lease by the lessor shall, in favour of the lessee and all persons deriving title under him, be sufficient evidence.

(9) Every such building lease shall be made in consideration of the lessee, or some person by whose direction the lease is granted, having erected, or agreeing to erect within not more than five years from the date of the lease, buildings, new or additional, or having improved or repaired buildings, or agreeing to improve or repair buildings within that time, or having executed, or agreeing to execute within that time, on the land leased, an improvement for or in connexion with building purposes.

(10) In any such building lease a peppercorn rent, or a nominal or other rent less than the rent ultimately payable, may be made payable for the first five years, or any less part of the term.

(11) In case of a lease by the mortgagor, he shall, within one month after making the lease, deliver to the

mortgagee, or, where there are more than one, to the mortgagee first in priority, a counterpart of the lease duly executed by the lessee, but the lessee shall not be concerned to see that this provision is complied with.

(12) A contract to make or accept a lease under this section may be enforced by or against every person on whom the lease if granted would be binding.

(13) This section applies only if and as far as a contrary intention is not expressed by the mortgagor and mortgagee in the mortgage deed, or otherwise in writing, and has effect subject to the terms of the mortgage deed or of any such writing and to the provisions therein contained.

(14) The mortgagor and mortgagee may, by agreement in writing, whether or not contained in the mortgage deed, reserve to or confer on the mortgagor or the mortgagee, or both, any further or other powers of leasing or having reference to leasing; and any further or other powers so reserved or conferred shall be exercisable, as far as may be, as if they were conferred by this Act, and with all the like incidents, effects, and consequences:

Provided that the powers so reserved or conferred shall not prejudicially affect the rights of any mortgagee interested under any other mortgage subsisting at the date of the agreement, unless that mortgagee joins in or adopts the agreement.

(15) Nothing in this Act shall be construed to enable a mortgagor or mortgagee to make a lease for any longer term or on any other conditions than such as could have been granted or imposed by the mortgagor, with the concurrence of all the incumbrancers, if this Act and the enactments replaced by this section had not been passed:

Provided that, in the case of a mortgage of leasehold land, a lease granted under this section shall reserve a reversion of not less than one day.

(16) Subject as aforesaid, this section applies to any mortgage made after the thirty-first day of December, eighteen hundred and eighty-one, but the provisions thereof, or any of them, may, by agreement in writing made after that date between mortgagor and mortgagee, be applied to a mortgage made before that date, so nevertheless that any such agreement shall not prejudicially affect any right or interest of any mortgagee not joining in or adopting the agreement.

(17) The provisions of this section referring to a lease shall be construed to extend and apply, as far as circumstances admit, to any letting, and to an agreement, whether in writing or not, for leasing or letting.

(18) For the purposes of this section "mortgagor" does not include an incumbrancer deriving title under the original mortgagor.

(19) The powers of leasing conferred by this section shall, after a receiver of the income of the mortgaged property or any part thereof has been appointed by a mortgagee under his statutory power, and so long as the receiver acts, be exercisable by such mortgagee instead of by the mortgagor, as respects any land affected by the receivership, in like manner as if such mortgagee were in possession of the land, and the mortgagee may, by writing, delegate any of such powers to the receiver.

Powers of mortgagor and mortgagee in possession to accept surrenders of leases.

100.—(1) For the purpose only of enabling a lease authorised under the last preceding section, or under any agreement made pursuant to that section, or by the mortgage deed (in this section referred to as an authorised lease) to be granted, a mortgagor of land while in possession shall, as against every incumbrancer, have, by virtue of this Act, power to accept from time to time a surrender of any lease of the mortgaged land or any part thereof comprised in the lease, with or without an exception of or in respect of all or any of the mines and minerals therein, and, on a surrender of the lease so far as it comprises part only of the land or mines and minerals leased, the rent may be apportioned.

(2) For the same purpose, a mortgagee of land while in possession shall, as against all prior or other incumbrancers, if any, and as against the mortgagor, have, by virtue of this Act, power to accept from time to time any such surrender as aforesaid.

(3) On a surrender of part only of the land or mines and minerals leased, the original lease may be varied, provided that the lease when varied would have been valid as an authorised lease if granted by the person accepting the surrender; and, on a surrender and the making of a new or other lease, whether for the same or for any extended or other term, and whether subject or not to the same or to any other covenants, provisions,

or conditions, the value of the lessee's interest in the lease surrendered may, subject to the provisions of this section, be taken into account in the determination of the amount of the rent to be reserved, and of the nature of the covenants, provisions, and conditions to be inserted in the new or other lease.

(4) Where any consideration for the surrender, other than an agreement to accept an authorised lease, is given by or on behalf of the lessee to or on behalf of the person accepting the surrender, nothing in this section authorises a surrender to a mortgagor without the consent of the incumbrancers, or authorises a surrender to a second or subsequent incumbrancer without the consent of every prior incumbrancer.

(5) No surrender shall, by virtue of this section, be rendered valid unless :—

(*a*) An authorised lease is granted of the whole of the land or mines and minerals comprised in the surrender to take effect in possession immediately or within one month after the date of the surrender; and

(*b*) The term certain or other interest granted by the new lease is not less in duration than the unexpired term or interest which would have been subsisting under the original lease if that lease had not been surrendered; and

(*c*) Where the whole of the land mines and minerals originally leased has been surrendered, the rent reserved by the new lease is not less than the rent which would have been payable under the original lease if it had not been surrendered; or where part only of the land or mines and minerals has been surrendered, the aggregate rents respectively remaining payable or reserved under the original lease and new lease are not less than the rent which would have been payable under the original lease if no partial surrender had been accepted.

(6) A contract to make or accept a surrender under this section may be enforced by or against every person on whom the surrender, if completed, would be binding.

(7) This section applies only if and as far as a contrary intention is not expressed by the mortgagor

and mortgagee in the mortgage deed, or otherwise in writing, and shall have effect subject to the terms of the mortgage deed or of any such writing and to the provisions therein contained.

(8) This section applies to a mortgage made after the thirty-first day of December, nineteen hundred and eleven, but the provisions of this section, or any of them, may, by agreement in writing made after that date, between mortgagor and mortgagee, be applied to a mortgage made before that date, so nevertheless that any such agreement shall not prejudicially affect any right or interest of any mortgagee not joining in or adopting the agreement.

(9) The provisions of this section referring to a lease shall be construed to extend and apply, as far as circumstances admit, to any letting, and to an agreement, whether in writing or not, for leasing or letting.

(10) The mortgagor and mortgagee may, by agreement in writing, whether or not contained in the mortgage deed, reserve or confer on the mortgagor or mortgagee, or both, any further or other powers relating to the surrender of leases; and any further or other powers so conferred or reserved shall be exercisable, as far as may be, as if they were conferred by this Act, and with all the like incidents, effects and consequences:

Provided that the powers so reserved or conferred shall not prejudicially affect the rights of any mortgagee interested under any other mortgage subsisting at the date of the agreement, unless that mortgagee joins in or adopts the agreement.

(11) Nothing in this section operates to enable a mortgagor or mortgagee to accept a surrender which could not have been accepted by the mortgagor with the concurrence of all the incumbrancers if this Act and the enactments replaced by this section had not been passed.

(12) For the purposes of this section "mortgagor" does not include an incumbrancer deriving title under the original mortgagor.

(13) The powers of accepting surrenders conferred by this section shall, after a receiver of the income of the mortgaged property or any part thereof has been appointed by the mortgagee, under the statutory power, and so long as the receiver acts, be exercisable

by such mortgagee instead of by the mortgagor, as respects any land affected by the receivership, in like manner as if such mortgagee were in possession of the land; and the mortgagee may, by writing, delegate any of such powers to the receiver.

Powers incident to estate or interest of mortgagee.

101.—(1) A mortgagee, where the mortgage is made by deed, shall, by virtue of this Act, have the following powers, to the like extent as if they had been in terms conferred by the mortgage deed, but not further (namely):

(i) A power, when the mortgage money has become due, to sell, or to concur with any other person in selling, the mortgaged property, or any part thereof, either subject to prior charges or not, and either together or in lots, by public auction or by private contract, subject to such conditions respecting title, or evidence of title, or other matter, as the mortgagee thinks fit, with power to vary any contract for sale, and to buy in at an auction, or to rescind any contract for sale, and to re-sell, without being answerable for any loss occasioned thereby; and

(ii) A power, at any time after the date of the mortgage deed, to insure and keep insured against loss or damage by fire any building, or any effects or property of an insurable nature, whether affixed to the freehold or not, being or forming part of the property which or an estate or interest wherein is mortgaged, and the premiums paid for any such insurance shall be a charge on the mortgaged property or estate or interest, in addition to the mortgage money, and with the same priority, and with interest at the same rate, as the mortgage money; and

(iii) A power, when the mortgage money has become due, to appoint a receiver of the income of the mortgaged property, or any part thereof; or, if the mortgaged property consists of an interest in income, or of a rentcharge or an annual or other periodical sum, a receiver of that property or any part thereof; and

(iv) A power, while the mortgagee is in possession, to cut and sell timber and other trees ripe for cutting, and not planted or left standing for

shelter or ornament, or to contract for any such cutting and sale, to be completed within any time not exceeding twelve months from the making of the contract.

(2) Where the mortgage deed is executed after the thirty-first day of December, nineteen hundred and eleven, the power of sale aforesaid includes the following powers as incident thereto (namely):—

(i) A power to impose or reserve or make binding, as far as the law permits, by covenant, condition, or otherwise, on the unsold part of the mortgaged property or any part thereof, or on the purchaser and any property sold, any restriction or reservation with respect to building on or other user of land, or with respect to mines and minerals, or for the purpose of the more beneficial working thereof, or with respect to any other thing:

(ii) A power to sell the mortgaged property, or any part thereof, or all or any mines and minerals apart from the surface:—

(*a*) With or without a grant or reservation of rights of way, rights of water, easements, rights, and privileges for or connected with building or other purposes in relation to the property remaining in mortgage or any part thereof, or to any property sold: and

(*b*) With or without an exception or reservation of all or any of the mines and minerals in or under the mortgaged property, and with or without a grant or reservation of powers of working, wayleaves, or rights of way, rights of water and drainage and other powers, easements, rights, and privileges for or connected with mining purposes in relation to the property remaining unsold or any part thereof, or to any property sold: and

(*c*) With or without covenants by the purchaser to expend money on the land sold.

(3) The provisions of this Act relating to the foregoing powers, comprised either in this section, or in any other section regulating the exercise of those powers, may be varied or extended by the mortgage

deed, and, as so varied or extended, shall, as far as may be, operate in the like manner and with all the like incidents, effects, and consequences, as if such variations or extensions were contained in this Act.

(4) This section applies only if and as far as a contrary intention is not expressed in the mortgage deed, and has effect subject to the terms of the mortgage deed and to the provisions therein contained.

(5) Save as otherwise provided, this section applies where the mortgage deed is executed after the thirty-first day of December, eighteen hundred and eighty-one.

(6) The power of sale conferred by this section includes such power of selling the estate in fee simple or any leasehold reversion as is conferred by the provisions of this Act relating to the realisation of mortgages.

Provision as to mortgages of undivided shares in land.

102.—(1) A person who was before the commencement of this Act a mortgagee of an undivided share in land shall have the same power to sell his share in the proceeds of sale of the land and in the rents and profits thereof until sale, as, independently of this Act, he would have had in regard to the share in the land; and shall also have a right to require the trustees for sale in whom the land is vested to account to him for the income attributable to that share or to appoint a receiver to receive the same from such trustees corresponding to the right which, independently of this Act, he would have had to take possession or to appoint a receiver of the rents and profits attributable to the same share.

(2) The powers conferred by this section are exercisable by the persons deriving title under such mortgagee.

Regulation of exercise of power of sale.

103. A mortgagee shall not exercise the power of sale conferred by this Act unless and until—

(i) Notice requiring payment of the mortgage money has been served on the mortgagor or one of two or more mortgagors, and default has been made in payment of the mortgage money, or of part thereof, for three months after such service; or

(ii) Some interest under the mortgage is in arrear and unpaid for two months after becoming due; or

(iii) There has been a breach of some provision contained in the mortgage deed or in this Act, or in an enactment replaced by this Act, and on the part of the mortgagor, or of some person concurring in making the mortgage, to be observed or performed, other than and besides a covenant for payment of the mortgage money or interest thereon.

Conveyance on sale.

104.—(1) A mortgagee exercising the power of sale conferred by this Act shall have power, by deed, to convey the property sold, for such estate and interest therein as he is by this Act authorised to sell or convey or may be the subject of the mortgage, freed from all estates, interests, and rights to which the mortgage has priority, but subject to all estates, interests, and rights which have priority to the mortgage.

(2) Where a conveyance is made in exercise of the power of sale conferred by this Act, or any enactment replaced by this Act, the title of the purchaser shall not be impeachable on the ground—

(*a*) that no case had arisen to authorise the sale; or

(*b*) that due notice was not given; or

(*c*) where the mortgage is made after the commencement of this Act, that leave of the court, when so required, was not obtained; or

(*d*) whether the mortgage was made before or after such commencement, that the power was otherwise improperly or irregularly exercised;

and a purchaser is not, either before or on conveyance, concerned to see or inquire whether a case has arisen to authorise the sale, or due notice has been given, or the power is otherwise properly and regularly exercised; but any person damnified by an unauthorised, or improper, or irregular exercise of the power shall have his remedy in damages against the person exercising the power.

(3) A conveyance on sale by a mortgagee, made after the commencement of this Act, shall be deemed to have been made in exercise of the power of sale conferred by this Act unless a contrary intention appears.

Application of proceeds of sale.

105. The money which is received by the mortgagee, arising from the sale, after discharge of prior incumbrances to which the sale is not made subject, if any, or after payment into court under this Act of a sum to meet any

prior incumbrance, shall be held by him in trust to be applied by him, first, in payment of all costs, charges, and expenses properly incurred by him as incident to the sale or any attempted sale, or otherwise; and secondly, in discharge of the mortgage money, interest, and costs, and other money, if any, due under the mortgage; and the residue of the money so received shall be paid to the person entitled to the mortgaged property, or authorised to give receipts for the proceeds of the sale thereof.

Provisions as to exercise of power of sale.

106.—(1) The power of sale conferred by this Act may be exercised by any person for the time being entitled to receive and give a discharge for the mortgage money.

(2) The power of sale conferred by this Act does not affect the right of foreclosure.

(3) The mortgagee shall not be answerable for any involuntary loss happening in or about the exercise or execution of the power of sale conferred by this Act, or of any trust connected therewith, or, where the mortgage is executed after the thirty-first day of December, nineteen hundred and eleven, of any power or provision contained in the mortgage deed.

(4) At any time after the power of sale conferred by this Act has become exercisable, the person entitled to exercise the power may demand and recover from any person, other than a person having in the mortgaged property an estate, interest, or right in priority to the mortgage, all the deeds and documents relating to the property, or to the title thereto, which a purchaser under the power of sale would be entitled to demand and recover from him.

Mortgagee's receipts, discharges, &c.

107.—(1) The receipt in writing of a mortgagee shall be a sufficient discharge for any money arising under the power of sale conferred by this Act, or for any money or securities comprised in his mortgage, or arising thereunder; and a person paying or transferring the same to the mortgagee shall not be concerned to inquire whether any money remains due under the mortgage.

(2) Money received by a mortgagee under his mortgage or from the proceeds of securities comprised in his mortgage shall be applied in like manner as in this Act directed respecting money received by him

arising from a sale under the power of sale conferred by this Act, but with this variation, that the costs, charges, and expenses payable shall include the costs, charges, and expenses properly incurred of recovering and receiving the money or securities, and of conversion of securities into money, instead of those incident to sale.

Amount and application of insurance money.

108.—(1) The amount of an insurance effected by a mortgagee against loss or damage by fire under the power in that behalf conferred by this Act shall not exceed the amount specified in the mortgage deed, or, if no amount is therein specified, two third parts of the amount that would be required, in case of total destruction, to restore the property insured.

(2) An insurance shall not, under the power conferred by this Act, be effected by a mortgagee in any of the following cases (namely):

(i) Where there is a declaration in the mortgage deed that no insurance is required:

(ii) Where an insurance is kept up by or on behalf of the mortgagor in accordance with the mortgage deed:

(iii) Where the mortgage deed contains no stipulation respecting insurance, and an insurance is kept up by or on behalf of the mortgagor with the consent of the mortgagee to the amount to which the mortgagee is by this Act authorised to insure.

(3) All money received on an insurance of mortgaged property against loss or damage by fire or otherwise effected under this Act, or any enactment replaced by this Act, or on an insurance for the maintenance of which the mortgagor is liable under the mortgage deed, shall, if the mortgagee so requires, be applied by the mortgagor in making good the loss or damage in respect of which the money is received.

(4) Without prejudice to any obligation to the contrary imposed by law, or by special contract, a mortgagee may require that all money received on an insurance of mortgaged property against loss or damage by fire or otherwise effected under this Act, or any enactment replaced by this Act, or on an insurance for the maintenance of which the mortgagor is liable under the

mortgage deed, be applied in or towards the discharge of the mortgage money.

Appointment, powers, remuneration and duties of receiver.

109.—(1) A mortgagee entitled to appoint a receiver under the power in that behalf conferred by this Act shall not appoint a receiver until he has become entitled to exercise the power of sale conferred by this Act, but may then, by writing under his hand, appoint such person as he thinks fit to be receiver.

(2) A receiver appointed under the powers conferred by this Act, or any enactment replaced by this Act, shall be deemed to be the agent of the mortgagor; and the mortgagor shall be solely responsible for the receiver's acts or defaults unless the mortgage deed otherwise provides.

(3) The receiver shall have power to demand and recover all the income of which he is appointed receiver, by action, distress, or otherwise, in the name either of the mortgagor or of the mortgagee, to the full extent of the estate or interest which the mortgagor could dispose of, and to give effectual receipts accordingly for the same, and to exercise any powers which may have been delegated to him by the mortgagee pursuant to this Act.

(4) A person paying money to the receiver shall not be concerned to inquire whether any case has happened to authorise the receiver to act.

(5) The receiver may be removed, and a new receiver may be appointed, from time to time by the mortgagee by writing under his hand.

(6) The receiver shall be entitled to retain out of any money received by him, for his remuneration, and in satisfaction of all costs, charges, and expenses incurred by him as receiver, a commission at such rate, not exceeding five per centum on the gross amount of all money received, as is specified in his appointment, and if no rate is so specified, then at the rate of five per centum on that gross amount, or at such other rate as the court thinks fit to allow, on application made by him for that purpose.

(7) The receiver shall, if so directed in writing by the mortgagee, insure to the extent, if any, to which the mortgagee might have insured and keep insured against loss or damage by fire, out of the money received

by him, any building, effects, or property comprised in the mortgage, whether affixed to the freehold or not, being of an insurable nature.

(8) Subject to the provisions of this Act as to the application of insurance money, the receiver shall apply all money received by him as follows, namely:

(i) In discharge of all rents, taxes, rates, and outgoings whatever affecting the mortgaged property; and

(ii) In keeping down all annual sums or other payments, and the interest on all principal sums, having priority to the mortgage in right whereof he is receiver; and

(iii) In payment of his commission, and of the premiums on fire, life, or other insurances, if any, properly payable under the mortgage deed or under this Act, and the cost of executing necessary or proper repairs directed in writing by the mortgagee; and

(iv) In payment of the interest accruing due in respect of any principal money due under the mortgage; and

(v) In or towards discharge of the principal money if so directed in writing by the mortgagee;

and shall pay the residue, if any, of the money received by him to the person who, but for the possession of the receiver, would have been entitled to receive the income of which he is appointed receiver, or who is otherwise entitled to the mortgaged property.

Effect of bankruptcy of the mortgagor on the power to sell or appoint a receiver.

110.—(1) Where the statutory or express power for a mortgagee either to sell or to appoint a receiver is made exercisable by reason of the mortgagor committing an act of bankruptcy or being adjudged a bankrupt, such power shall not be exercised only on account of the act of bankruptcy or adjudication, without the leave of the court.

(2) This section applies only where the mortgage deed is executed after the commencement of this Act; and in this section "act of bankruptcy" has the same meaning as in the Bankruptcy Act, 1914.

4 & 5 Geo. 5. c. 59.

Effect of advance on joint account.

111.—(1) Where—

(*a*) in a mortgage, or an obligation for payment of money, or a transfer of a mortgage or of such an obligation, the sum, or any part of

the sum, advanced or owing is expressed to be advanced by or owing to more persons than one out of money, or as money, belonging to them on a joint account; or

(*b*) a mortgage, or such an obligation, or such a transfer is made to more persons than one, jointly;

the mortgage money, or other money or money's worth, for the time being due to those persons on the mortgage or obligation, shall, as between them and the mortgagor or obligor, be deemed to be and remain money or money's worth belonging to those persons on a joint account; and the receipt in writing of the survivors or last survivor of them, or of the personal representative of the last survivor, shall be a complete discharge for all money or money's worth for the time being due, notwithstanding any notice to the payer of a severance of the joint account.

(2) This section applies if and so far as a contrary intention is not expressed in the mortgage, obligation, or transfer, and has effect subject to the terms of the mortgage, obligation, or transfer, and to the provisions therein contained.

(3) This section applies to any mortgage obligation or transfer made after the thirty-first day of December, eighteen hundred and eighty-one.

Notice of trusts on transfer of mortgage.

112.—(1) Where, on the transfer of a mortgage, the stamp duty, if payable according to the amount of the debt transferred, would exceed the sum of ten shillings, a purchaser shall not, by reason only of the transfer bearing a ten-shilling stamp, whether adjudicated or not, be deemed to have or to have had notice of any trust, or that the transfer was made for effectuating the discharge of a trustee or the appointment of a new trustee.

(2) This section applies to transfers made before as well as after the commencement of this Act.

Notice of trusts affecting mortgage debts.

113.—(1) A person dealing in good faith with a mortgagee, or with the mortgagor if the mortgage has been discharged released or postponed as to the whole or any part of the mortgaged property, shall not be concerned with any trust at any time affecting the mortgage money or the income thereof, whether or

not he has notice of the trust, and may assume unless the contrary is expressly stated in the instruments relating to the mortgage—

(*a*) that the mortgagees (if more than one) are or were entitled to the mortgage money on a joint account; and

(*b*) that the mortgagee has or had power to give valid receipts for the purchase money or mortgage money and the income thereof (including any arrears of interest) and to release or postpone the priority of the mortgage debt or any part thereof or to deal with the same or the mortgaged property or any part thereof;

without investigating the equitable title to the mortgage debt or the appointment or discharge of trustees in reference thereto.

(2) This section applies to mortgages made before or after the commencement of this Act, but only as respects dealings effected after such commencement.

(3) This section does not affect the liability of any person in whom the mortgage debt is vested for the purposes of any trust to give effect to that trust.

Transfers of mortgages.

114.—(1) A deed executed by a mortgagee purporting to transfer his mortgage or the benefit thereof shall, unless a contrary intention is therein expressed, and subject to any provisions therein contained, operate to transfer to the transferee—

(*a*) the right to demand, sue for, recover, and give receipts for, the mortgage money or the unpaid part thereof, and the interest then due, if any, and thenceforth to become due thereon; and

(*b*) the benefit of all securities for the same, and the benefit of and the right to sue on all covenants with the mortgagee, and the right to exercise all powers of the mortgagee; and

(*c*) all the estate and interest in the mortgaged property then vested in the mortgagee subject to redemption or cesser, but as to such estate and interest subject to the right of redemption then subsisting.

(2) In this section "transferee" includes his personal representatives and assigns.

(3) A transfer of mortgage may be made in the form contained in the Third Schedule to this Act with such variations and additions, if any, as the circumstances may require.

(4) This section applies, whether the mortgage transferred was made before or after the commencement of this Act, but applies only to transfers made after the commencement of this Act.

(5) This section does not extend to a transfer of a bill of sale of chattels by way of security.

Reconveyances of mortgages by endorsed receipts.

115.—(1) A receipt endorsed on, written at the foot of, or annexed to, a mortgage for all money thereby secured, which states the name of the person who pays the money and is executed by the chargee by way of legal mortgage or the person in whom the mortgaged property is vested and who is legally entitled to give a receipt for the mortgage money shall operate, without any reconveyance, surrender, or release—

(*a*) Where a mortgage takes effect by demise or subdemise, as a surrender of the term, so as to determine the term or merge the same in the reversion immediately expectant thereon;

(*b*) Where the mortgage does not take effect by demise or subdemise, as a reconveyance thereof to the extent of the interest which is the subject matter of the mortgage, to the person who immediately before the execution of the receipt was entitled to the equity of redemption;

and in either case, as a discharge of the mortgaged property from all principal money and interest secured by, and from all claims under the mortgage, but without prejudice to any term or other interest which is paramount to the estate or interest of the mortgagee or other person in whom the mortgaged property was vested.

(2) Provided that, where by the receipt the money appears to have been paid by a person who is not entitled to the immediate equity of redemption, the receipt shall operate as if the benefit of the mortgage had by deed been transferred to him; unless—

(*a*) it is otherwise expressly provided; or

(*b*) the mortgage is paid off out of capital money, or other money in the hands of a personal representative or trustee properly applicable for the discharge of the mortgage, and it is not expressly provided that the receipt is to operate as a transfer.

(3) Nothing in this section confers on a mortgagor a right to keep alive a mortgage paid off by him, so as to affect prejudicially any subsequent incumbrancer; and where there is no right to keep the mortgage alive, the receipt does not operate as a transfer.

(4) This section does not affect the right of any person to require a reassignment, surrender, release, or transfer to be executed in lieu of a receipt.

(5) A receipt may be given in the form contained in the Third Schedule to this Act, with such variations and additions, if any, as may be deemed expedient; and where it takes effect under this section, it shall (subject as hereinafter provided) be liable to the same stamp duty as if it were a reconveyance under seal.

(6) In a receipt given under this section the same covenants shall be implied as if the person who executes the receipt had by deed been expressed to convey the property as mortgagee, subject to any interest which is paramount to the mortgage.

(7) Where the mortgage consists of a mortgage and a further charge or of more than one deed, it shall be sufficient for the purposes of this section, if the receipt refers either to all the deeds whereby the mortgage money is secured or to the aggregate amount of the mortgage money thereby secured and for the time being owing, and is endorsed on, written at the foot of, or annexed to, one of the mortgage deeds.

(8) This section applies to the discharge of a charge by way of legal mortgage, and to the discharge of a mortgage, whether made by way of statutory mortgage or not, executed before or after the commencement of this Act, but only as respects discharges effected after such commencement.

(9) The provisions of this section relating to the operation of a receipt shall (in substitution for the like statutory provisions relating to receipts given by or on behalf of a building, friendly, industrial or provident

society) apply to the discharge of a mortgage made to any such society, provided that the receipt is executed in the manner required by the statute relating to the society, but nothing in this section shall render a receipt given by or on behalf of any such society liable to any stamp duty which would not have been otherwise payable.

(10) This section does not apply to the discharge of a charge or incumbrance registered under the Land Registration Act, 1925.

(11) In this section "mortgaged property" means the property remaining subject to the mortgage at the date of the receipt.

Cesser of mortgage terms.

116. Without prejudice to the right of a tenant for life or other person having only a limited interest in the equity of redemption to require a mortgage to be kept alive by transfer or otherwise, a mortgage term shall, when the money secured by the mortgage has been discharged, become a satisfied term and shall cease.

Forms of statutory legal charges.

117.—(1) As a special form of charge by way of legal mortgage, a mortgage of freehold or leasehold land may be made by a deed expressed to be made by way of statutory mortgage, being in one of the forms (Nos. 1 or 4) set out in the Fourth Schedule to this Act, with such variations and additions, if any, as circumstances may require, and if so made the provisions of this section shall apply thereto.

(2) There shall be deemed to be included, and there shall by virtue of this Act be implied, in such a mortgage deed—

First, a covenant with the mortgagee by the person therein expressed to charge as mortgagor to the effect following, namely:

That the mortgagor will, on the stated day, pay to the mortgagee the stated mortgage money, with interest thereon in the meantime at the stated rate, and will thereafter, if and as long as the mortgage money or any part thereof remains unpaid, pay to the mortgagee (as well after as before any judgment is obtained under the mortgage) interest thereon, or on the unpaid part thereof, at the stated rate, by equal half-yearly payments the first thereof to be

made at the end of six months from the day stated for payment of the mortgage money:

Secondly, a provision to the following effect (namely):

That if the mortgagor on the stated day pays to the mortgagee the stated mortgage money, with interest thereon in the meantime at the stated rate, the mortgagee at any time thereafter, at the request and cost of the mortgagor, shall discharge the mortgaged property or transfer the benefit of the mortgage as the mortgagor may direct.

This subsection applies to a mortgage deed made under section twenty-six of the Conveyancing Act, 1881, with a substitution of a reference to "the person therein expressed to convey as mortgagor" for the reference in this subsection to "the person therein expressed to charge as mortgagor."

Forms of statutory transfers of legal charges.

118.—(1) A transfer of a statutory mortgage may be made by a deed expressed to be made by way of statutory transfer of mortgage, being in such one of the three forms (Nos. 2, 3 or 4) set out in the Fourth Schedule to this Act as may be appropriate to the case with such variations and additions, if any, as circumstances may require, and if so made the provisions of this section shall apply thereto.

(2) In whichever of those three forms the deed of transfer is made, it shall have effect as follows (namely):—

(i) There shall become vested in the person to whom the benefit of the mortgage is expressed to be transferred (who, with his personal representatives and assigns, is in this section designated the transferee), the right to demand, sue for, recover, and give receipts for the mortgage money, or the unpaid part thereof, and the interest then due, if any, and thenceforth to become due thereon, and the benefit of all securities for the same, and the benefit of and the right to sue on all covenants with the mortgagee, and the right to exercise all powers of the mortgagee:

(ii) All the term and interest, if any, subject to redemption, of the mortgagee in the mortgaged land shall vest in the transferee, subject to redemption.

(3) If a covenantor joins in the deed of transfer, there shall also be deemed to be included, and there shall by virtue of this Act be implied therein, a covenant with the transferee by the person expressed to join therein as covenantor to the effect following (namely):

That the covenantor will, on the next of the days by the mortgage deed fixed for payment of interest pay to the transferee the stated mortgage money, or so much thereof as then remains unpaid, with interest thereon, or on the unpaid part thereof, in the meantime, at the rate stated in the mortgage deed; and will thereafter, as long as the mortgage money or any part thereof remains unpaid, pay to the transferee interest on that sum, or the unpaid part thereof, at the same rate, on the successive days by the mortgage deed fixed for payment of interest.

(4) If the deed of transfer is made in the Form No. 4, it shall, by virtue of this Act, operate not only as a statutory transfer of mortgage, but also as a statutory mortgage, and the provisions of this section shall have effect in relation thereto accordingly; but it shall not be liable to any increased stamp duty by reason only of it being designated a mortgage.

(5) This section applies to the transfer of a statutory mortgage created under any enactment replaced by this Act.

Implied covenants, joint and several.

119. In a deed of statutory mortgage, or of statutory transfer of mortgage, where more persons than one are expressed to convey or charge as mortgagors, or to join as covenantors, the implied covenant on their part shall be deemed to be a joint and several covenant by them; and where there are more mortgagees or more transferees than one, the implied covenant with them shall be deemed to be a covenant with them jointly, unless the amount secured is expressed to be secured to them in shares or distinct sums, in which latter case the implied covenant with them shall be deemed to be a covenant with each severally in respect of the share or distinct sum secured to him.

Form of discharge of statutory

120. A statutory mortgage may be surrendered or discharged by a receipt in the form (No. 5) set out

in the Fourth Schedule to this Act with such variations and additions, if any, as circumstances may require. mortgage or charge.

Rentcharges.

121.—(1) Where a person is entitled to receive out of any land, or out of the income of any land, any annual sum, payable half-yearly or otherwise, whether charged on the land or on the income of the land, and whether by way of rentcharge or otherwise, not being rent incident to a reversion, then, subject and without prejudice to all estates, interests, and rights having priority to the annual sum, the person entitled to receive the annual sum shall have such remedies for recovering and compelling payment thereof as are described in this section, as far as those remedies might have been conferred by the instrument under which the annual sum arises, but not further. Remedies for the recovery of annual sums charged on land.

(2) If at any time the annual sum or any part thereof is unpaid for twenty-one days next after the time appointed for any payment in respect thereof, the person entitled to receive the annual sum may enter into and distrain on the land charged or any part thereof, and dispose according to law of any distress found, to the intent that thereby or otherwise the annual sum and all arrears thereof, and all costs and expenses occasioned by non-payment thereof, may be fully paid.

(3) If at any time the annual sum or any part thereof is unpaid for forty days next after the time appointed for any payment in respect thereof, then, although no legal demand has been made for payment thereof, the person entitled to receive the annual sum may enter into possession of and hold the land charged or any part thereof, and take the income thereof, until thereby or otherwise the annual sum and all arrears thereof due at the time of his entry, or afterwards becoming due during his continuance in possession, and all costs and expenses occasioned by nonpayment of the annual sum, are fully paid; and such possession when taken shall be without impeachment of waste.

(4) In the like case the person entitled to the annual sum, whether taking possession or not, may also by deed demise the land charged, or any part thereof, to a trustee for a term of years, with or without impeachment of waste, on trust, by all or any of the means hereinafter mentioned, or by any other reasonable means, to

raise and pay the annual sum and all arrears thereof due or to become due, and all costs and expenses occasioned by nonpayment of the annual sum, or incurred in compelling or obtaining payment thereof, or otherwise relating thereto, including the costs of the preparation and execution of the deed of demise, and the costs of the execution of the trusts of that deed:

Provided that this subsection shall not authorise the creation of a legal term of years absolute after the commencement of this Act, save where the annual sum is a rentcharge held for a legal estate.

The surplus, if any, of the money raised, or of the income received, under the trusts of the deed shall be paid to the person for the time being entitled to the land therein comprised in reversion immediately expectant on the term thereby created.

The means by which such annual sum, arrears, costs, and expenses may be raised includes—

(*a*) the creation of a legal mortgage or a sale (effected by assignment or subdemise) of the term created in the land charged or any part thereof,

(*b*) the receipt of the income of the land comprised in the term.

(5) This section applies only if and as far as a contrary intention is not expressed in the instrument under which the annual sum arises, and has effect subject to the terms of that instrument and to the provisions therein contained.

(6) The rule of law relating to perpetuities does not apply to any powers or remedies conferred by this section, nor to the same or like powers or remedies conferred by any instrument for recovering or compelling the payment of any annual sum within the meaning of this section.

(7) The powers and remedies conferred by this section apply where the instrument creating the annual sum comes into operation after the thirty-first day of December, eighteen hundred and eighty-one, and whether the instrument conferring the power under which the annual sum was authorised to be created came into operation before or after that date, unless the instrument creating the power or under which the annual sum is created otherwise directs.

Creation of rentcharges

122.—(1) A rentcharge or other annual sum (not being rent incident to a reversion) payable half yearly or

otherwise may be granted, reserved, charged or created out of or on another rentcharge or annual sum (not being rent incident to a reversion) charged on or payable out of land or on or out of the income of land, in like manner as the same could have been made to issue out of land. charged on another rentcharge and remedies for recovery thereof.

(2) If at any time the annual sum so created or any part thereof is unpaid for twenty-one days next after the time appointed for any payment in respect thereof, the person entitled to receive the annual sum shall (without prejudice to any prior interest or charge) have power to appoint a receiver of the annual sum charged or any part thereof, and the provisions of this Act relating to the appointment, powers, remuneration and duties of a receiver, shall apply in like manner as if such person were a mortgagee entitled to exercise the power of sale conferred by this Act, and the annual sum charged were the mortgaged property and the person entitled thereto were the mortgagor.

(3) The power to appoint a receiver conferred by this section shall (where the annual sum is charged on a rentcharge) take effect in substitution for the remedies conferred, in the case of annual sums charged on land, by the last preceding section, but subsection (6) of that section shall apply and have effect as if herein re-enacted and in terms made applicable to the powers conferred by this section.

(4) This section applies to annual sums expressed to be created before as well as after the commencement of this Act, and, but without prejudice to any order of the court made before the commencement of this Act, operates to confirm any annual sum which would have been validly created if this section had been in force.

Powers of Attorney.

123.—(1) The donee of a power of attorney may, if he thinks fit, execute or do any assurance, instrument, or thing in and with his own name and signature, and under his own seal, where sealing is required, by the authority of the donor of the power; and every assurance, instrument, and thing so executed and done shall be as effectual in law, to all intents, as if it had been executed or done by the donee of the power in the name and with the signature and seal of the donor thereof. Execution under power of attorney

(2) This section applies to powers of attorney created by instruments executed either before or after the commencement of this Act, and operates without prejudice to any statutory direction that an instrument is to be executed in the name of an estate owner.

Payment by attorney under power without notice of death, &c.

124.—(1) Any person making any payment or doing any act, in good faith, in pursuance of a power of attorney, shall not be liable in respect of the payment or act by reason that before the payment or act the donor of the power had died or become subject to disability or bankrupt, or had revoked the power, if the fact of death, disability, bankruptcy, or revocation was not at the time of the payment or act known to the person making or doing the same.

(2) A statutory declaration by an attorney to the effect that he has not received any notice or information of the revocation of such power of attorney by death or otherwise shall, if made immediately before or within three months after any such payment or act as aforesaid, be taken to be conclusive proof of such non-revocation at the time when such payment or act was made or done.

Where the donee of the power of attorney is a corporation aggregate, the officer appointed to act for the corporation in the execution of the power may make the statutory declaration in like manner as if that officer had been the donee of the power.

Where probate or letters of administration have been granted to any person, as attorney for some other person, this section applies as if the payment made or acts done under the grant had been made or done under a power of attorney.

(3) This section does not affect any right against the payee of any person interested in any money so paid; and that person shall have the like remedy against the payee as he would have had against the payer if the payment had not been made by him.

(4) This section applies to payments and acts made and done before or after the commencement of this Act, and in this section "power of attorney" includes a power of attorney implied by statute.

Powers of attorney relating to

125.—(1) Where an instrument creating a power of attorney confers a power to dispose of or deal with any interest in or charge upon land, the instrument or a

certified copy thereof or of such portions thereof as refer to or are necessary to the interpretation of such power shall be filed at the Central Office pursuant to the statutory enactment in that behalf, unless the instrument only relates to one transaction and is to be handed over on the completion of that transaction: land to be filed.

Provided that, if the instrument relates to land or a charge registered under the Land Registration Act, 1925, the instrument or a certified copy thereof or of such portions thereof as aforesaid shall be filed at the Land Registry, and it shall not be necessary to file it at the Central Office unless it also relates to land or a charge not so registered, in which case the instrument or a certified copy thereof or of such portions thereof as aforesaid shall be filed at the Central Office and an office copy shall be filed at the Land Registry.

(2) Notwithstanding any stipulation to the contrary, a purchaser of any interest in or charge upon land (not being land or a charge registered as aforesaid) shall be entitled to have any instrument creating a power of attorney which affects his title, or an office copy thereof or of the material portions thereof delivered to him free of expense.

(3) This section only applies to instruments executed after the commencement of this Act, and no right to rescind a contract shall arise by reason of the enforcement of the provisions of this section.

126.—(1) If a power of attorney given for valuable consideration is in the instrument creating the power expressed to be irrevocable, then, in favour of a purchaser,— Effect of irrevocable power of attorney for value

(i) The power shall not be revoked at any time, either by anything done by the donor of the power without the concurrence of the donee of the power, or by the death, disability or bankruptcy of the donor of the power; and

(ii) Any act done at any time by the donee of the power in pursuance of the power shall be as valid as if anything done by the donor of the power without the concurrence of the donee of the power, or the death, disability or bankruptcy of the donor of the power, had not been done or happened; and

(iii) Neither the donee of the power nor the purchaser shall at any time be prejudicially affected by notice of anything done by the donor of the power without the concurrence of the donee of the power, or of the death, disability or bankruptcy of the donor of the power.

(2) This section applies to powers of attorney created by instruments executed after the thirty-first day of December, eighteen hundred and eighty-two.

Effect of power of attorney irrevocable for a fixed time.

127.—(1) If a power of attorney, whether given for valuable consideration or not, is in the instrument creating the power expressed to be irrevocable for a fixed time therein specified, not exceeding one year from the date of the instrument, then, in favour of a purchaser,—

(i) The power shall not be revoked for and during that fixed time either by anything done by the donor of the power without the concurrence of the donee of the power, or by the death, disability or bankruptcy of the donor of the power; and

(ii) Any act done within that fixed time by the donee of the power in pursuance of the power shall be as valid as if anything done by the donor of the power without the concurrence of the donee of the power, or the death, disability or bankruptcy of the donor of the power, had not been done or happened; and

(iii) Neither the donee of the power, nor the purchaser, shall at any time be prejudicially affected by notice either during or after that fixed time of anything done by the donor of the power during that fixed time without the concurrence of the donee of the power, or of the death, disability or bankruptcy of the donor of the power, within that fixed time.

(2) This section applies to powers of attorney created by instruments executed after the thirty-first day of December, eighteen hundred and eighty-two.

Devolution of power of attorney

128.—(1) A power of attorney given for valuable consideration may be given, and shall be deemed to

have been always capable of being given, to a purchaser of property or any interest therein, and to the persons deriving title under him thereto, and those persons shall be the duly constituted attorneys for all the purposes of the power, but without prejudice to any right to appoint substitutes given by the power. given to a purchaser.

(2) This section applies to powers of attorney created by instruments executed after the thirty-first day of December, eighteen hundred and eighty-two.

(3) This section does not authorise the persons deriving title under the donee of the power to execute, on behalf of the registered proprietor, an instrument relating to registered land to which effect is to be given on the register, unless the power is protected by a caution or other entry on the register.

129.—(1) A married woman, whether an infant or not, has power, as if she were unmarried and of full age, by deed, to appoint an attorney on her behalf for the purpose of executing any deed or doing any other act which she might herself execute or do, and the provisions of this Act relating to instruments creating powers of attorney apply thereto. Power of attorney granted by married woman.

(2) This section applies to deeds executed after the thirty-first day of December, eighteen hundred and eighty-one.

PART IV.

EQUITABLE INTERESTS AND THINGS IN ACTION.

130.—(1) An interest in tail or in tail male or in tail female or in tail special (in this Act referred to as "an entailed interest") may be created by way of trust in any property, real or personal, but only by the like expressions as those by which before the commencement of this Act a similar estate tail could have been created by deed (not being an executory instrument) in freehold land, and with the like results, including the right to bar the entail either absolutely or so as to create an interest equivalent to a base fee, and accordingly all statutory provisions relating to estates tail in real property shall apply to entailed interests in personal property. Creation of entailed interests in real and personal property.

Personal estate so entailed (not being chattels settled as heirlooms) may be invested, applied, and otherwise dealt with as if the same were capital money

or securities representing capital money arising under the Settled Land Act, 1925, from land settled on the like trusts.

(2) Expressions contained in an instrument coming into operation after the commencement of this Act, which, in a will, or executory instrument coming into operation before such commencement, would have created an entailed interest in freehold land, but would not have been effectual for that purpose in a deed not being an executory instrument, shall (save as provided by the next succeeding section) operate in equity, in regard to property real or personal, to create absolute, fee simple or other interests corresponding to those which, if the property affected had been personal estate, would have been created therein by similar expressions before the commencement of this Act.

(3) Where personal estate (including the proceeds of sale of land directed to be sold and chattels directed to be held as heirlooms) is, after the commencement of this Act, directed to be enjoyed or held with, or upon trusts corresponding to trusts affecting, land in which, either before or after the commencement of this Act an entailed interest has been created, and is subsisting, such direction shall be deemed sufficient to create a corresponding entailed interest in such personal estate.

(4) In default of and subject to the execution of a disentailing assurance or the exercise of the testamentary power conferred by this Act, an entailed interest (to the extent of the property affected) shall devolve as an equitable interest, from time to time, upon the persons who would have been successively entitled thereto as the heirs of the body (either generally or of a particular class) of the tenant in tail or other person, or as tenant by the curtesy, if the entailed interest had, before the commencement of this Act, been limited in respect of freehold land governed by the general law in force immediately before such commencement, and such law had remained unaffected.

(5) Where personal chattels are settled without reference to settled land on trusts creating entailed interests therein, the trustees, with the consent of the usufructuary for the time being if of full age, may sell the chattels or any of them, and the net proceeds of any such sale shall be held in trust for and shall go to the same persons successively, in the same manner and for

the same interests, as the chattels sold would have been held and gone if they had not been sold, and the income of investments representing such proceeds of sale shall be applied accordingly.

(6) An entailed interest shall only be capable of being created by a settlement of real or personal property or the proceeds of sale thereof (including the will of a person dying after the commencement of this Act), or by an agreement for a settlement in which the trusts to affect the property are sufficiently declared.

(7) In this Act where the context so admits "entailed interest" includes an estate tail (now made to take effect as an equitable interest) created before the commencement of this Act.

Abolition of the rule in Shelley's case.

131. Where by any instrument coming into operation after the commencement of this Act an interest in any property is expressed to be given to the heir or heirs or issue or any particular heir or any class of the heirs or issue of any person in words which, but for this section would, under the rule of law known as the Rule in Shelley's case, have operated to give to that person an interest in fee simple or an entailed interest, such words shall operate in equity as words of purchase and not of limitation, and shall be construed and have effect accordingly, and in the case of an interest in any property expressed to be given to an heir or heirs or any particular heir or class of heirs, the same person or persons shall take as would in the case of freehold land have answered that description under the general law in force before the commencement of this Act.

As to heirs taking by purchase.

132.—(1) A limitation of real or personal property in favour of the heir, either general or special, of a deceased person which, if limited in respect of freehold land before the commencement of this Act, would have conferred on the heir an estate in the land by purchase, shall operate to confer a corresponding equitable interest in the property on the person who would, if the general law in force immediately before such commencement had remained unaffected, have answered the description of the heir, either general or special, of the deceased in respect of his freehold land, either at the death of the deceased or at the time named in the limitation, as the case may require.

(2) This section applies whether the deceased person dies before or after the commencement of this Act, but only applies to limitations or trusts created by an instrument coming into operation after such commencement.

Abolition of enrolment of disentailing assurances, &c. 3 & 4 Will. 4 c. 74.

133.—(1) Every assurance or instrument executed or made after the commencement of this Act which, under the provisions of sections forty-one, forty-six, fifty-eight, fifty-nine, seventy-one, and seventy-two of the Fines and Recoveries Act, 1833, or otherwise under that Act (as amended by this Act), would have been required to be enrolled in the Central Office in England, shall be as effectual for all purposes, without such enrolment, as if it had been duly enrolled within the time prescribed by the said Act for such enrolment.

(2) In this section "assurance" includes a vesting order operating as a disentailing assurance, whether made for barring an estate tail or enlarging a base fee or otherwise.

(3) This section applies to entailed interests authorised to be created by this Act as well as to estates tail created before the commencement of this Act.

Restriction on executory limitations.

134.—(1) Where there is a person entitled to—

(*a*) an equitable interest in land for an estate in fee simple or for any less interest not being an entailed interest, or

(*b*) any interest in other property, not being an entailed interest,

with an executory limitation over on default or failure of all or any of his issue, whether within or at any specified period or time or not, that executory limitation shall be or become void and incapable of taking effect, if and as soon as there is living any issue who has attained the age of twenty-one years of the class on default or failure whereof the limitation over was to take effect.

(2) This section applies where the executory limitation is contained in an instrument coming into operation after the thirty-first day of December, eighteen hundred and eighty-two, save that, as regards instruments coming into operation before the commencement of this Act, it only applies to limitations of land for an estate in fee, or for a term of years absolute or determinable on life, or for a term of life.

Equitable waste.

135. An equitable interest for life without impeachment of waste does not confer upon the tenant for life any right to commit waste of the description known as equitable waste, unless an intention to confer such right expressly appears by the instrument creating such equitable interest.

Legal assignments of things in action.

136.—(1) Any absolute assignment by writing under the hand of the assignor (not purporting to be by way of charge only) of any debt or other legal thing in action, of which express notice in writing has been given to the debtor, trustee or other person from whom the assignor would have been entitled to claim such debt or thing in action, is effectual in law (subject to equities having priority over the right of the assignee) to pass and transfer from the date of such notice—

(*a*) the legal right to such debt or thing in action;

(*b*) all legal and other remedies for the same; and

(*c*) the power to give a good discharge for the same without the concurrence of the assignor:

Provided that, if the debtor, trustee or other person liable in respect of such debt or thing in action has notice—

(*a*) that the assignment is disputed by the assignor or any person claiming under him; or

(*b*) of any other opposing or conflicting claims to such debt or thing in action;

he may, if he thinks fit, either call upon the persons making claim thereto to interplead concerning the same, or pay the debt or other thing in action into court under the provisions of the Trustee Act, 1925.

(2) This section does not affect the provisions of the Policies of Assurance Act, 1867. 30 & 31 Vict. c. 144.

Dealings with life interests, reversions and other equitable interests.

137.—(1) The law applicable to dealings with equitable things in action which regulates the priority of competing interests therein, shall, as respects dealings with equitable interests in land, capital money, and securities representing capital money effected after the commencement of this Act, apply to and regulate the priority of competing interests therein.

This subsection applies whether or not the money or securities are in court.

(2) (i) In the case of a dealing with an equitable interest in settled land, capital money or securities representing capital money, the persons to be served with notice of the dealing shall be the trustees of the settlement; and where the equitable interest is created by a derivative or subsidiary settlement, the persons to be served with notice shall be the trustees of that settlement.

(ii) In the case of a dealing with an equitable interest in the proceeds of sale of land or in the rents and profits until sale the persons to be served with notice shall, as heretofore, be the trustees for sale.

(iii) In any other case the person to be served with notice of a dealing with an equitable interest in land shall be the estate owner of the land affected.

The persons on whom notice is served pursuant to this subsection shall be affected thereby in the same manner as if they had been trustees of personal property out of which the equitable interest was created or arose.

This subsection does not apply where the money or securities are in court.

(3) A notice, otherwise than in writing, given to, or received by, a trustee after the commencement of this Act as respects any dealing with an equitable interest in real or personal property, shall not affect the priority of competing claims of purchasers in that equitable interest.

(4) Where, as respects any dealing with an equitable interest in real or personal property—

(*a*) the trustees are not persons to whom a valid notice of the dealing can be given; or

(*b*) there are no trustees to whom a notice can be given; or

(*c*) for any other reason a valid notice cannot be served, or cannot be served without unreasonable cost or delay;

a purchaser may at his own cost require that—

(i) a memorandum of the dealing be endorsed, written on or permanently annexed to the instrument creating the trust;

(ii) the instrument be produced to him by the person having the possession or custody thereof to prove that a sufficient memorandum has been placed thereon or annexed thereto.

Such memorandum shall, as respects priorities, operate in like manner as if notice in writing of the dealing had been given to trustees duly qualified to receive the notice at the time when the memorandum is placed on or annexed to the instrument creating the trust.

(5) Where the property affected is settled land, the memorandum shall be placed on or annexed to the trust instrument and not the vesting instrument.

Where the property affected is land held on trust for sale, the memorandum shall be placed on or annexed to the instrument whereby the equitable interest is created.

(6) Where the trust is created by statute or by operation of law, or in any other case where there is no instrument whereby the trusts are declared, the instrument under which the equitable interest is acquired or which is evidence of the devolution thereof shall, for the purposes of this section, be deemed the instrument creating the trust.

In particular, where the trust arises by reason of an intestacy, the letters of administration or probate in force when the dealing was effected shall be deemed such instrument.

(7) Nothing in this section affects any priority acquired before the commencement of this Act.

(8) Where a notice in writing of a dealing with an equitable interest in real or personal property has been served on a trustee under this section, the trustees from time to time of the property affected shall be entitled to the custody of the notice, and the notice shall be delivered to them by any person who for the time being may have the custody thereof; and subject to the payment of costs, any person interested in the equitable interest may require production of the notice.

(9) The liability of the estate owner of the legal estate affected to produce documents and furnish information to persons entitled to equitable interests therein shall correspond to the liability of a trustee for sale to produce documents and furnish information to persons entitled to equitable interests in the proceeds of sale of the land.

(10) This section does not apply until a trust has been created, and in this section "dealing" includes a disposition by operation of law.

Power to nominate a trust corporation to receive notices.

138.—(1) By any settlement or other instrument creating a trust, a trust corporation may be nominated to whom notices of dealings affecting real or personal property may be given, whether or not under the foregoing section, and in default of such nomination the trustees (if any) of the instrument, or the court on the application of any person interested, may make the nomination.

(2) The person having the possession or custody of any instrument on which notices under that section may be endorsed shall cause the name of the trust corporation to whom notices may be given to be endorsed upon that instrument.

(3) Notice given to any trust corporation whose name is so endorsed shall operate in the same way as a notice or endorsement under the foregoing section.

(4) Where a trust corporation is acting for the purposes of this section a notice given to a trustee of the trust instrument of a dealing relating to the trust property shall forthwith be delivered or sent by post by the trustee to the trust corporation, and until received by the corporation shall not affect any priority.

(5) A trust corporation shall not be nominated for the purposes of this section—

(*a*) unless that corporation consents to act; or

(*b*) where that corporation has any beneficial interest in or charge upon the trust property; or

(*c*) where a trust corporation is acting as the trustee or one of the trustees of the instrument creating the trust.

(6) Where a trust corporation acting for the purposes of this section becomes entitled to any beneficial interest in or charge upon the trust property, another trust corporation shall be nominated in its place and all documents relating to notices affecting the trust shall be delivered to the corporation so nominated.

(7) A trust corporation acting for the purposes of this section shall be bound to keep a separate register

of notices of dealings in respect of each equitable interest and shall enter therein—

(*a*) the date of the notice;

(*b*) the name of the person giving the notice;

(*c*) short particulars of the equitable interest intended to be affected; and

(*d*) short particulars of the effect of the dealing if mentioned in the notice.

(8) The trust corporation may, before making any entry in the register, require the applicant to pay a fee not exceeding the prescribed fee.

(9) Subject to the payment of a fee not exceeding the prescribed fee, the trust corporation shall permit any person who would, if the corporation had been the trustee of the trust instrument, have been entitled to inspect notices served on the trustee, to inspect and take copies of the register and any notices held by the corporation.

(10) Subject to the payment by the applicant of a fee not exceeding the prescribed fee, the trust corporation shall reply to all inquiries respecting notices received by the corporation in like manner and in the same circumstances as if the corporation had been the trustee of the trust instrument.

(11) In this section "prescribed fee" means the fee prescribed by the Treasury, with the sanction of the Lord Chancellor, in cases where the Public Trustee acts as a trust corporation for the purposes of this section.

PART V.

LEASES AND TENANCIES.

Effect of extinguishment of reversion.

139.—(1) Where a reversion expectant on a lease of land is surrendered or merged, the estate or interest which as against the lessee for the time being confers the next vested right to the land, shall be deemed the reversion for the purpose of preserving the same incidents and obligations as would have affected the original reversion had there been no surrender or merger thereof.

(2) This section applies to surrenders or mergers effected after the first day of October, eighteen hundred and forty-five.

Apportionment of conditions on severance.

140.—(1) Notwithstanding the severance by conveyance, surrender, or otherwise of the reversionary estate in any land comprised in a lease, and notwithstanding the avoidance or cesser in any other manner of the term granted by a lease as to part only of the land comprised therein, every condition or right of re-entry, and every other condition contained in the lease, shall be apportioned, and shall remain annexed to the severed parts of the reversionary estate as severed, and shall be in force with respect to the term whereon each severed part is reversionary, or the term in the part of the land as to which the term has not been surrendered, or has not been avoided or has not otherwise ceased, in like manner as if the land comprised in each severed part, or the land as to which the term remains subsisting, as the case may be, had alone originally been comprised in the lease.

(2) In this section "right of re-entry" includes a right to determine the lease by notice to quit or otherwise; but where the notice is served by a person entitled to a severed part of the reversion so that it extends to part only of the land demised, the lessee may within one month determine the lease in regard to the rest of the land by giving to the owner of the reversionary estate therein a counter notice expiring at the same time as the original notice.

(3) This section applies to leases made before or after the commencement of this Act and whether the severance of the reversionary estate or the partial avoidance or cesser of the term was effected before or after such commencement:

Provided that, where the lease was made before the first day of January eighteen hundred and eighty-two nothing in this section shall affect the operation of a severance of the reversionary estate or partial avoidance or cesser of the term which was effected before the commencement of this Act.

Rent and benefit of lessee's covenants

141.—(1) Rent reserved by a lease, and the benefit of every covenant or provision therein contained, having reference to the subject-matter thereof, and on the

lessee's part to be observed or performed, and every condition of re-entry and other condition therein contained, shall be annexed and incident to and shall go with the reversionary estate in the land, or in any part thereof, immediately expectant on the term granted by the lease, notwithstanding severance of that reversionary estate, and without prejudice to any liability affecting a covenantor or his estate. to run with the reversion.

(2) Any such rent, covenant or provision shall be capable of being recovered, received, enforced, and taken advantage of, by the person from time to time entitled, subject to the term, to the income of the whole or any part, as the case may require, of the land leased.

(3) Where that person becomes entitled by conveyance or otherwise, such rent, covenant or provision may be recovered, received, enforced or taken advantage of by him notwithstanding that he becomes so entitled after the condition of re-entry or forfeiture has become enforceable, but this subsection does not render enforceable any condition of re-entry or other condition waived or released before such person becomes entitled as aforesaid.

(4) This section applies to leases made before or after the commencement of this Act, but does not affect the operation of—

(*a*) any severance of the reversionary estate; or

(*b*) any acquisition by conveyance or otherwise of the right to receive or enforce any rent covenant or provision;

effected before the commencement of this Act.

142.—(1) The obligation under a condition or of a covenant entered into by a lessor with reference to the subject-matter of the lease shall, if and as far as the lessor has power to bind the reversionary estate immediately expectant on the term granted by the lease, be annexed and incident to and shall go with that reversionary estate, or the several parts thereof, notwithstanding severance of that reversionary estate, and may be taken advantage of and enforced by the person in whom the term is from time to time vested by conveyance, devolution in law, Obligation of lessor's covenants to run with reversion.

or otherwise; and, if and as far as the lessor has power to bind the person from time to time entitled to that reversionary estate, the obligation aforesaid may be taken advantage of and enforced against any person so entitled.

(2) This section applies to leases made before or after the commencement of this Act, whether the severance of the reversionary estate was effected before or after such commencement:

Provided that, where the lease was made before the first day of January eighteen hundred and eighty-two, nothing in this section shall affect the operation of any severance of the reversionary estate effected before such commencement.

This section takes effect without prejudice to any liability affecting a covenantor or his estate.

Effect of licences granted to lessees.

143.—(1) Where a licence is granted to a lessee to do any act, the licence, unless otherwise expressed, extends only—

(*a*) to the permission actually given; or

(*b*) to the specific breach of any provision or covenant referred to; or

(*c*) to any other matter thereby specifically authorised to be done;

and the licence does not prevent any proceeding for any subsequent breach unless otherwise specified in the licence.

(2) Notwithstanding any such licence—

(*a*) All rights under covenants and powers of re-entry contained in the lease remain in full force and are available as against any subsequent breach of covenant, condition or other matter not specifically authorised or waived, in the same manner as if no licence had been granted; and

(*b*) The condition or right of entry remains in force in all respects as if the licence had not been granted, save in respect of the particular matter authorised to be done.

(3) Where in any lease there is a power or condition of re-entry on the lessee assigning, subletting or doing any other specified act without a licence, and a licence is granted—

(*a*) to any one of two or more lessees to do any act, or to deal with his equitable share or interest; or

(*b*) to any lessee, or to any one of two or more lessees to assign or underlet part only of the property, or to do any act in respect of part only of the property;

the licence does not operate to extinguish the right of entry in case of any breach of covenant or condition by the co-lessees of the other shares or interests in the property, or by the lessee or lessees of the rest of the property (as the case may be) in respect of such shares or interests or remaining property, but the right of entry remains in force in respect of the shares, interests or property not the subject of the licence.

This subsection does not authorise the grant after the commencement of this Act of a licence to create an undivided share in a legal estate.

(4) This section applies to licences granted after the thirteenth day of August, eighteen hundred and fifty-nine.

No fine to be exacted for licence to assign.

144. In all leases containing a covenant, condition, or agreement against assigning, underletting, or parting with the possession, or disposing of the land or property leased without licence or consent, such covenant, condition, or agreement shall, unless the lease contains an express provision to the contrary, be deemed to be subject to a proviso to the effect that no fine or sum of money in the nature of a fine shall be payable for or in respect of such licence or consent; but this proviso does not preclude the right to require the payment of a reasonable sum in respect of any legal or other expense incurred in relation to such licence or consent.

Lessee to give notice of ejectment to lessor.

145. Every lessee to whom there is delivered any writ for the recovery of premises demised to or held by him, or to whose knowledge any such writ comes, shall forthwith give notice thereof to his lessor or his bailiff or receiver, and, if he fails so to do, he shall be liable to

forfeit to the person of whom he holds the premises an amount equal to the value of three years' improved or rack rent of the premises, to be recovered by action in any court having jurisdiction in respect of claims for such an amount.

Restrictions on and relief against forfeiture of leases and under-leases.

146.—(1) A right of re-entry or forfeiture under any proviso or stipulation in a lease for a breach of any covenant or condition in the lease shall not be enforceable, by action or otherwise, unless and until the lessor serves on the lessee a notice—

(*a*) specifying the particular breach complained of; and

(*b*) if the breach is capable of remedy, requiring the lessee to remedy the breach; and

(*c*) in any case, requiring the lessee to make compensation in money for the breach;

and the lessee fails, within a reasonable time thereafter, to remedy the breach, if it is capable of remedy, and to make reasonable compensation in money, to the satisfaction of the lessor, for the breach.

(2) Where a lessor is proceeding, by action or otherwise, to enforce such a right of re-entry or forfeiture, the lessee may, in the lessor's action, if any, or in any action brought by himself, apply to the court for relief; and the court may grant or refuse relief, as the court, having regard to the proceedings and conduct of the parties under the foregoing provisions of this section, and to all the other circumstances, thinks fit; and in case of relief may grant it on such terms, if any, as to costs, expenses, damages, compensation, penalty, or otherwise, including the granting of an injunction to restrain any like breach in the future, as the court, in the circumstances of each case, thinks fit.

(3) A lessor shall be entitled to recover as a debt due to him from a lessee, and in addition to damages (if any), all reasonable costs and expenses properly incurred by the lessor in the employment of a solicitor and surveyor or valuer, or otherwise, in reference to any breach giving rise to a right of re-entry or forfeiture which, at the request of the lessee, is waived by the lessor, or from which the lessee is relieved, under the provisions of this Act.

(4) Where a lessor is proceeding by action or otherwise to enforce a right of re-entry or forfeiture under any covenant, proviso, or stipulation in a lease, or for non-payment of rent, the court may, on application by any person claiming as under-lessee any estate or interest in the property comprised in the lease or any part thereof, either in the lessor's action (if any) or in any action brought by such person for that purpose, make an order vesting, for the whole term of the lease or any less term, the property comprised in the lease or any part thereof in any person entitled as under-lessee to any estate or interest in such property upon such conditions as to execution of any deed or other document, payment of rent, costs, expenses, damages, compensation, giving security, or otherwise, as the court in the circumstances of each case may think fit, but in no case shall any such under-lessee be entitled to require a lease to be granted to him for any longer term than he had under his original sub-lease.

(5) For the purposes of this section—

(*a*) "Lease" includes an original or derivative under-lease; also an agreement for a lease where the lessee has become entitled to have his lease granted; also a grant at a fee farm rent, or securing a rent by condition;

(*b*) "Lessee" includes an original or derivative under-lessee, and the persons deriving title under a lessee; also a grantee under any such grant as aforesaid and the persons deriving title under him;

(*c*) "Lessor" includes an original or derivative under-lessor, and the persons deriving title under a lessor; also a person making such grant as aforesaid and the persons deriving title under him;

(*d*) "Under-lease" includes an agreement for an underlease where the under-lessee has become entitled to have his underlease granted;

(*e*) "Under-lessee" includes any person deriving title under an under-lessee.

(6) This section applies although the proviso or stipulation under which the right of re-entry or forfeiture

accrues is inserted in the lease in pursuance of the directions of any Act of Parliament.

(7) For the purposes of this section a lease limited to continue as long only as the lessee abstains from committing a breach of covenant shall be and take effect as a lease to continue for any longer term for which it could subsist, but determinable by a proviso for re-entry on such a breach.

(8) This section does not extend—

(i) To a covenant or condition against assigning, underletting, parting with the possession, or disposing of the land leased where the breach occurred before the commencement of this Act; or

(ii) In the case of a mining lease, to a covenant or condition for allowing the lessor to have access to or inspect books, accounts, records, weighing machines or other things, or to enter or inspect the mine or the workings thereof.

(9) This section does not apply to a condition for forfeiture on the bankruptcy of the lessee or on taking in execution of the lessee's interest if contained in a lease of—

(*a*) Agricultural or pastoral land;

(*b*) Mines or minerals;

(*c*) A house used or intended to be used as a public-house or beershop;

(*d*) A house let as a dwelling-house, with the use of any furniture, books, works of art, or other chattels not being in the nature of fixtures;

(*e*) Any property with respect to which the personal qualifications of the tenant are of importance for the preservation of the value or character of the property, or on the ground of neighbourhood to the lessor, or to any person holding under him.

(10) Where a condition of forfeiture on the bankruptcy of the lessee or on taking in execution of the lessee's interest is contained in any lease, other than a

lease of any of the classes mentioned in the last subsection, then—

(*a*) if the lessee's interest is sold within one year from the bankruptcy or taking in execution, this section applies to the forfeiture condition aforesaid;

(*b*) if the lessee's interest is not sold before the expiration of that year, this section only applies to the forfeiture condition aforesaid during the first year from the date of the bankruptcy or taking in execution.

(11) This section does not, save as otherwise mentioned, affect the law relating to re-entry or forfeiture or relief in case of non-payment of rent.

(12) This section has effect notwithstanding any stipulation to the contrary.

Relief against notice to effect decorative repairs.

147.—(1) After a notice is served on a lessee relating to the internal decorative repairs to a house or other building, he may apply to the court for relief, and if, having regard to all the circumstances of the case (including in particular the length of the lessee's term or interest remaining unexpired), the court is satisfied that the notice is unreasonable, it may, by order, wholly or partially relieve the lessee from liability for such repairs.

(2) This section does not apply:—

(i) where the liability arises under an express covenant or agreement to put the property in a decorative state of repair and the covenant or agreement has never been performed;

(ii) to any matter necessary or proper—

(*a*) for putting or keeping the property in a sanitary condition, or

(*b*) for the maintenance or preservation of the structure;

(iii) to any statutory liability to keep a house in all respects reasonably fit for human habitation;

(iv) to any covenant or stipulation to yield up the house or other building in a specified state of repair at the end of the term.

(3) In this section "lease" includes an underlease and an agreement for a lease, and "lessee" has a corresponding meaning and includes any person liable to effect the repairs.

(4) This section applies whether the notice is served before or after the commencement of this Act, and has effect notwithstanding any stipulation to the contrary.

Waiver of a covenant in a lease.

148.—(1) Where any actual waiver by a lessor or the persons deriving title under him of the benefit of any covenant or condition in any lease is proved to have taken place in any particular instance, such waiver shall not be deemed to extend to any instance, or to any breach of covenant or condition save that to which such waiver specially relates, nor operate as a general waiver of the benefit of any such covenant or condition.

(2) This section applies unless a contrary intention appears and extends to waivers effected after the twenty-third day of July, eighteen hundred and sixty.

Abolition of interesse termini, and as to reversionary leases and leases for lives.

149.—(1) The doctrine of interesse termini is hereby abolished.

(2) As from the commencement of this Act all terms of years absolute shall, whether the interest is created before or after such commencement, be capable of taking effect at law or in equity, according to the estate interest or powers of the grantor, from the date fixed for commencement of the term, without actual entry.

(3) A term, at a rent or granted in consideration of a fine, limited after the commencement of this Act to take effect more than twenty-one years from the date of the instrument purporting to create it, shall be void, and any contract made after such commencement to create such a term shall likewise be void; but this subsection does not apply to any term taking effect in equity under a settlement, or created out of an equitable interest under a settlement, or under an equitable power for mortgage, indemnity or other like purposes.

(4) Nothing in subsections (1) and (2) of this section prejudicially affects the right of any person to recover any rent or to enforce or take advantage of any covenants or conditions, or, as respects terms or interests created before the commencement of this Act, operates to vary

any statutory or other obligations imposed in respect of such terms or interests.

(5) Nothing in this Act affects the rule of law that a legal term, whether or not being a mortgage term, may be created to take effect in reversion expectant on a longer term, which rule is hereby confirmed.

(6) Any lease or underlease, at a rent, or in consideration of a fine, for life or lives or for any term of years determinable with life or lives, or on the marriage of the lessee, or any contract therefor, made before or after the commencement of this Act, or created by virtue of Part V. of the Law of Property Act, 1922, shall take effect as a lease, underlease or contract therefor, for a term of ninety years determinable after the death or marriage (as the case may be) of the original lessee, or of the survivor of the original lessees, by at least one month's notice in writing given to determine the same on one of the quarter days applicable to the tenancy, either by the lessor or the persons deriving title under him, to the person entitled to the leasehold interest, or if no such person is in existence by affixing the same to the premises, or by the lessee or other persons in whom the leasehold interest is vested to the lessor or the persons deriving title under him:

Provided that—

(*a*) this subsection shall not apply to any term taking effect in equity under a settlement or created out of an equitable interest under a settlement for mortgage, indemnity, or other like purposes;

(*b*) the person in whom the leasehold interest is vested by virtue of Part V. of the Law of Property Act, 1922, shall, for the purposes of this subsection, be deemed an original lessee;

(*c*) if the lease, underlease, or contract therefor is made determinable on the dropping of the lives of persons other than or besides the lessees, then the notice shall be capable of being served after the death of any person or of the survivor of any persons (whether or not including the lessees) on the cesser of whose life or lives the lease, underlease, or contract is made determinable, instead of after the death of the original lessee or of the survivor of the original lessees;

(*d*) if there are no quarter days specially applicable to the tenancy, notice may be given to determine the tenancy on one of the usual quarter days.

Surrender of a lease, without prejudice to underleases with a view to the grant of a new lease.

150.—(1) A lease may be surrendered with a view to the acceptance of a new lease in place thereof, without a surrender of any under-lease derived thereout.

(2) A new lease may be granted and accepted, in place of any lease so surrendered, without any such surrender of an under-lease as aforesaid, and the new lease operates as if all under-leases derived out of the surrendered lease had been surrendered before the surrender of that lease was effected.

(3) The lessee under the new lease and any person deriving title under him is entitled to the same rights and remedies in respect of the rent reserved by and the covenants, agreements and conditions contained in any under-lease as if the original lease had not been surrendered but was or remained vested in him.

(4) Each under-lessee and any person deriving title under him is entitled to hold and enjoy the land comprised in his under-lease (subject to the payment of any rent reserved by and to the observance of the covenants agreements and conditions contained in the under-lease) as if the lease out of which the under-lease was derived had not been surrendered.

(5) The lessor granting the new lease and any person deriving title under him is entitled to the same remedies, by distress or entry in and upon the land comprised in any such under-lease for rent reserved by or for breach of any covenant, agreement or condition contained in the new lease (so far only as the rents reserved by or the covenants, agreements or conditions contained in the new lease do not exceed or impose greater burdens than those reserved by or contained in the original lease out of which the under-lease is derived) as he would have had—

(*a*) If the original lease had remained on foot; or

(*b*) If a new under-lease derived out of the new lease had been granted to the under-lessee or a person deriving title under him;

as the case may require.

(6) This section does not affect the powers of the court to give relief against forfeiture.

Provision as to attornments by tenants.

151.—(1) Where land is subject to a lease—

(*a*) the conveyance of a reversion in the land expectant on the determination of the lease; or

(*b*) the creation or conveyance of a rentcharge to issue or issuing out of the land;

shall be valid without any attornment of the lessee:

Nothing in this subsection—

(i) affects the validity of any payment of rent by the lessee to the person making the conveyance or grant before notice of the conveyance or grant is given to him by the person entitled thereunder; or

(ii) renders the lessee liable for any breach of covenant to pay rent, on account of his failure to pay rent to the person entitled under the conveyance or grant before such notice is given to the lessee.

(2) An attornment by the lessee in respect of any land to a person claiming to be entitled to the interest in the land of the lessor, if made without the consent of the lessor, shall be void.

This subsection does not apply to an attornment—

(*a*) made pursuant to a judgment of a court of competent jurisdiction; or

(*b*) to a mortgagee, by a lessee holding under a lease from the mortgagor where the right of redemption is barred; or

(*c*) to any other person rightfully deriving title under the lessor.

Leases in validated by reason of non-compliance with terms of powers under which they are granted.

152.—(1) Where in the intended exercise of any power of leasing, whether conferred by an Act of Parliament or any other instrument, a lease (in this section referred to as an invalid lease) is granted, which by reason of any failure to comply with the terms of the power is invalid, then—

(*a*) as against the person entitled after the determination of the interest of the grantor to the reversion; or

(*b*) as against any other person who, subject to any lease properly granted under the power, would have been entitled to the land comprised in the lease;

the lease, if it was made in good faith, and the lessee has entered thereunder, shall take effect in equity as a contract for the grant, at the request of the lessee, of a valid lease under the power, of like effect as the invalid lease, subject to such variations as may be necessary in order to comply with the terms of the power:

Provided that a lessee under an invalid lease shall not, by virtue of any such implied contract, be entitled to obtain a variation of the lease if the other persons who would have been bound by the contract are willing and able to confirm the lease without variation.

(2) Where a lease granted in the intended exercise of such a power is invalid by reason of the grantor not having power to grant the lease at the date thereof, but the grantor's interest in the land comprised therein continues after the time when he might, in the exercise of the power, have properly granted a lease in the like terms, the lease shall take effect as a valid lease in like manner as if it had been granted at that time.

(3) Where during the continuance of the possession taken under an invalid lease the person for the time being entitled, subject to such possession, to the land comprised therein or to the rents and profits thereof, is able to confirm the lease without variation, the lessee, or other person who would have been bound by the lease had it been valid, shall, at the request of the person so able to confirm the lease, be bound to accept a confirmation thereof, and thereupon the lease shall have effect and be deemed to have had effect as a valid lease from the grant thereof.

Confirmation under this subsection may be by a memorandum in writing signed by or on behalf of the persons respectively confirming and accepting the confirmation of the lease.

(4) Where a receipt or a memorandum in writing confirming an invalid lease is, upon or before the acceptance of rent thereunder, signed by or on behalf of the

person accepting the rent, that acceptance shall, as against that person, be deemed to be a confirmation of the lease.

(5) The foregoing provisions of this section do not affect prejudicially—

(*a*) any right of action or other right or remedy to which, but for those provisions or any enactment replaced by those provisions, the lessee named in an invalid lease would or might have been entitled under any covenant on the part of the grantor for title or quiet enjoyment contained therein or implied thereby; or

(*b*) any right of re-entry or other right or remedy to which, but for those provisions or any enactment replaced thereby, the grantor or other person for the time being entitled to the reversion expectant on the termination of the lease, would or might have been entitled by reason of any breach of the covenants, conditions or provisions contained in the lease and binding on the lessee.

(6) Where a valid power of leasing is vested in or may be exercised by a person who grants a lease which, by reason of the determination of the interest of the grantor or otherwise, cannot have effect and continuance according to the terms thereof independently of the power, the lease shall for the purposes of this section be deemed to have been granted in the intended exercise of the power although the power is not referred to in the lease.

(7) This section does not apply to a lease of land held on charitable, ecclesiastical or public trusts.

(8) This section takes effect without prejudice to the provision in this Act for the grant of leases in the name and on behalf of the estate owner of the land affected.

Enlargement of residue of long terms into fee simple estates.

153.—(1) Where a residue unexpired of not less than two hundred years of a term, which, as originally created, was for not less than three hundred years, is subsisting in land, whether being the whole land originally comprised in the term, or part only thereof,—

(*a*) without any trust or right of redemption affecting the term in favour of the freeholder, or other

person entitled in reversion expectant on the term; and

(*b*) without any rent, or with merely a peppercorn rent or other rent having no money value, incident to the reversion, or having had a rent, not being merely a peppercorn rent or other rent having no money value, originally so incident, which subsequently has been released or has become barred by lapse of time, or has in any other way ceased to be payable;

the term may be enlarged into a fee simple in the manner, and subject to the restrictions in this section provided.

(2) This section applies to and includes every such term as aforesaid whenever created, whether or not having the freehold as the immediate reversion thereon; but does not apply to—

(i) Any term liable to be determined by re-entry for condition broken; or

(ii) Any term created by subdemise out of a superior term, itself incapable of being enlarged into fee simple.

(3) This section extends to mortgage terms, where the right of redemption is barred.

(4) A rent not exceeding the yearly sum of one pound which has not been collected or paid for a continuous period of twenty years or upwards shall, for the purposes of this section, be deemed to have ceased to be payable:

Provided that, of the said period, at least five years must have elapsed after the commencement of this Act.

(5) Where a rent incident to a reversion expectant on a term to which this section applies is deemed to have ceased to be payable for the purposes aforesaid, no claim for such rent or for any arrears thereof shall be capable of being enforced.

(6) Each of the following persons, namely—

(i) Any person beneficially entitled in right of the term, whether subject to any incumbrance or not, to possession of any land comprised in the term, and, in the case of a married woman

without the concurrence of her husband, whether or not she is entitled for her separate use or as her separate property, or is subject to a restraint on anticipation;

(ii) Any person being in receipt of income as trustee, in right of the term, or having the term vested in him in trust for sale, whether subject to any incumbrance or not;

(iii) Any person in whom, as personal representative of any deceased person, the term is vested, whether subject to any incumbrance or not;

shall, so far as regards the land to which he is entitled, or in which he is interested in right of the term, in any such character as aforesaid, have power by deed to declare to the effect that, from and after the execution of the deed, the term shall be enlarged into a fee simple.

(7) Thereupon, by virtue of the deed and of this Act, the term shall become and be enlarged accordingly, and the person in whom the term was previously vested shall acquire and have in the land a fee simple instead of the term.

(8) The estate in fee simple so acquired by enlargement shall be subject to all the same trusts, powers, executory limitations over, rights, and equities, and to all the same covenants and provisions relating to user and enjoyment, and to all the same obligations of every kind, as the term would have been subject to if it had not been so enlarged.

(9) But where—

(*a*) any land so held for the residue of a term has been settled in trust by reference to other land, being freehold land, so as to go along with that other land, or, in the case of settlements coming into operation before the commencement of this Act, so as to go along with that other land as far as the law permits; and

(*b*) at the time of enlargement, the ultimate beneficial interest in the term, whether subject

to any subsisting particular estate or not, has not become absolutely and indefeasibly vested in any person, free from charges or powers of charging created by a settlement;

the estate in fee simple acquired as aforesaid shall, without prejudice to any conveyance for value previously made by a person having a contingent or defeasible interest in the term, be liable to be, and shall be, conveyed by means of a subsidiary vesting instrument and settled in like manner as the other land, being freehold land, aforesaid, and until so conveyed and settled shall devolve beneficially as if it had been so conveyed and settled.

(10) The estate in fee simple so acquired shall, whether the term was originally created without impeachment of waste or not, include the fee simple in all mines and minerals which at the time of enlargement have not been severed in right or in fact, or have not been severed or reserved by an inclosure Act or award.

Application of Part V. to existing leases.

154. This Part of this Act, except where otherwise expressly provided, applies to leases created before or after the commencement of this Act, and "lease" includes an under-lease or other tenancy.

PART VI.

POWERS.

Release of powers simply collateral.

155. A person to whom any power, whether coupled with an interest or not, is given may by deed release, or contract not to exercise, the power.

Disclaimer of power.

156.—(1) A person to whom any power, whether coupled with an interest or not, is given may by deed disclaim the power, and, after disclaimer, shall not be capable of exercising or joining in the exercise of the power.

(2) On such disclaimer, the power may be exercised by the other person or persons or the survivor or survivors of the other persons, to whom the power is given, unless the contrary is expressed in the instrument creating the power.

Protection of purchasers claiming under certain void appointments.

157.—(1) An instrument purporting to exercise a power of appointment over property, which, in default of and subject to any appointment, is held in trust for a class or number of persons of whom the appointee is one, shall not (save as hereinafter provided) be void on the ground of fraud on the power as against a purchaser in good faith :

Provided that, if the interest appointed exceeds, in amount or value, the interest in such property to which immediately before the execution of the instrument the appointee was presumptively entitled under the trust in default of appointment, having regard to any advances made in his favour and to any hotchpot provision, the protection afforded by this section to a purchaser shall not extend to such excess.

(2) In this section " a purchaser in good faith " means a person dealing with an appointee of the age of not less than twenty-five years for valuable consideration in money or money's worth, and without notice of the fraud, or of any circumstances from which, if reasonable inquiries had been made, the fraud might have been discovered.

(3) Persons deriving title under any purchaser entitled to the benefit of this section shall be entitled to the like benefit.

(4) This section applies only to dealings effected after the commencement of this Act.

Validation of appointments where objects are excluded or take illusory shares.

158.—(1) No appointment made in exercise of any power to appoint any property among two or more objects shall be invalid on the ground that—

(*a*) an unsubstantial, illusory, or nominal share only is appointed to or left unappointed to devolve upon any one or more of the objects of the power; or

(*b*) any object of the power is thereby altogether excluded;

but every such appointment shall be valid notwithstanding that any one or more of the objects is not thereby, or in default of appointment, to take any share in the property.

(2) This section does not affect any provision in the instrument creating the power which declares the amount of any share from which any object of the power is not to be excluded.

(3) This section applies to appointments made before or after the commencement of this Act.

Execution of powers not testamentary.

159.—(1) A deed executed in the presence of and attested by two or more witnesses (in the manner in which deeds are ordinarily executed and attested) is so far as respects the execution and attestation thereof, a valid execution of a power of appointment by deed or by any instrument in writing, not testamentary, notwithstanding that it is expressly required that a deed or instrument in writing, made in exercise of the power, is to be executed or attested with some additional or other form of execution or attestation or solemnity.

(2) This section does not operate to defeat any direction in the instrument creating the power that—

(*a*) the consent of any particular person is to be necessary to a valid execution;

(*b*) in order to give validity to any appointment, any act is to be performed having no relation to the mode of executing and attesting the instrument.

(3) This section does not prevent the donee of a power from executing it in accordance with the power by writing, or otherwise than by an instrument executed and attested as a deed; and where a power is so executed this section does not apply.

(4) This section applies to appointments by deed made after the thirteenth day of August, eighteen hundred and fifty-nine.

Application of Part VI. to existing powers.

160. This Part of this Act applies to powers created or arising either before or after the commencement of this Act.

Part VII.

Perpetuities and Accumulations.

Perpetuities.

Abolition of the double possibility rule.

161.—(1) The rule of law prohibiting the limitation, after a life interest to an unborn person, of an interest in land to the unborn child or other issue of an unborn person is hereby abolished, but without prejudice to any other rule relating to perpetuities.

(2) This section only applies to limitations or trusts created by an instrument coming into operation after the commencement of this Act.

Restrictions on the perpetuity rule.

162.—(1) For removing doubts, it is hereby declared that the rule of law relating to perpetuities does not apply and shall be deemed never to have applied—

(*a*) To any power to distrain on or to take possession of land or the income thereof given by way of indemnity against a rent, whether charged upon or payable in respect of any part of that land or not; or

(*b*) To any rentcharge created only as an indemnity against another rentcharge, although the indemnity rentcharge may only arise or become payable on breach of a condition or stipulation; or

(*c*) To any power, whether exercisable on breach of a condition or stipulation or not, to retain or withhold payment of any instalment of a rentcharge as an indemnity against another rentcharge; or

(*d*) To any grant, exception, or reservation of any right of entry on, or user of, the surface of land or of any easements, rights, or privileges over or under land for the purpose of—

(i) winning, working, inspecting, measuring, converting, manufacturing, carrying away, and disposing of mines and minerals;

(ii) inspecting, grubbing up, felling and carrying away timber and other trees, and the tops and lops thereof;

(iii) executing repairs, alterations, or additions to any adjoining land, or the buildings and erections thereon;

(iv) constructing, laying down, altering, repairing, renewing, cleansing, and maintaining sewers, watercourses, cesspools, gutters, drains, water-pipes, gas-pipes, electric wires or cables or other like works.

(2) This section applies to instruments coming into operation before or after the commencement of this Act.

Validation of certain gifts void for remoteness.

163.—(1) Where in a will, settlement or other instrument the absolute vesting either of capital or income of property, or the ascertainment of a beneficiary or class of beneficiaries, is made to depend on the attainment by the beneficiary or members of the class of an age exceeding twenty-one years, and thereby the gift to that beneficiary or class or any member thereof, or any gift over, remainder, executory limitation, or trust arising on the total or partial failure of the original gift, is, or but for this section would be, rendered void for remoteness, the will, settlement, or other instrument shall take effect for the purposes of such gift, gift over, remainder, executory limitation, or trust as if the absolute vesting or ascertainment aforesaid had been made to depend on the beneficiary or member of the class attaining the age of twenty-one years, and that age shall be substituted for the age stated in the will, settlement, or other instrument.

(2) This section applies to any instrument executed after the commencement of this Act and to any testamentary appointment (whether made in exercise of a general or special power), devise, or bequest contained in the will of a person dying after such commencement, whether the will is made before or after such commencement.

(3) This section applies without prejudice to any provision whereby the absolute vesting or ascertainment is also made to depend on the marriage of any person, or any other event which may occur before the age stated in the will, settlement, or other instrument is attained.

Accumulations.

164.—(1) No person may by any instrument or otherwise settle or dispose of any property in such manner that the income thereof shall, save as hereinafter mentioned, be wholly or partially accumulated for any longer period than one of the following, namely :— General restrictions on accumulation of income.

(*a*) the life of the grantor or settlor; or

(*b*) a term of twenty-one years from the death of the grantor, settlor or testator; or

(*c*) the duration of the minority or respective minorities of any person or persons living or en ventre sa mere at the death of the grantor, settlor or testator; or

(*d*) the duration of the minority or respective minorities only of any person or persons who under the limitations of the instrument directing the accumulations would, for the time being, if of full age, be entitled to the income directed to be accumulated.

In every case where any accumulation is directed otherwise than as aforesaid, the direction shall (save as hereinafter mentioned) be void; and the income of the property directed to be accumulated shall, so long as the same is directed to be accumulated contrary to this section, go to and be received by the person or persons who would have been entitled thereto if such accumulation had not been directed.

(2) This section does not extend to any provision—

(i) for payment of the debts of any grantor, settlor, testator or other person;

(ii) for raising portions for—

(*a*) any child, children or remoter issue of any grantor, settlor or testator; or

(*b*) any child, children or remoter issue of a person taking any interest under any settlement or other disposition directing the accumulations or to whom any interest is thereby limited;

(iii) respecting the accumulation of the produce of timber or wood;

and accordingly such provisions may be made as if no statutory restrictions on accumulation of income had been imposed.

(3) The restrictions imposed by this section apply to instruments made on or after the twenty-eighth day of July, eighteen hundred, but in the case of wills only where the testator was living and of testamentary capacity after the end of one year from that date.

Qualification of restrictions on accumulation.

165. Where accumulations of surplus income are made during a minority under any statutory power or under the general law, the period for which such accumulations are made is not (whether the trust was created or the accumulations were made before or after the commencement of this Act) to be taken into account in determining the periods for which accumulations are permitted to be made by the last preceding section, and accordingly an express trust for accumulation for any other permitted period shall not be deemed to have been invalidated or become invalid, by reason of accumulations also having been made as aforesaid during such minority.

Restriction on accumulation for the purchase of land.

166.—(1) No person may settle or dispose of any property in such manner that the income thereof shall be wholly or partially accumulated for the purchase of land only, for any longer period than the duration of the minority or respective minorities of any person or persons who, under the limitations of the instrument directing the accumulation, would for the time being, if of full age, be entitled to the income so directed to be accumulated.

(2) This section does not, nor do the enactments which it replaces, apply to accumulations to be held as capital money for the purposes of the Settled Land Act, 1925, or the enactments replaced by that Act, whether or not the accumulations are primarily liable to be laid out in the purchase of land.

(3) This section applies to settlements and dispositions made after the twenty-seventh day of June eighteen hundred and ninety-two.

PART VIII.

MARRIED WOMEN AND LUNATICS.

Married Women.

Abolition of acknowledgments

167.—(1) Every disposition (including a disclaimer) of real or personal property or any interest therein which

a married woman is under the Fines and Recoveries Act, 1833, or the Married Women's Reversionary Interests Act, 1857, or any other enactment authorised to make by deed acknowledged in the manner prescribed by any such Act as amended by any subsequent enactment, shall, from the date of execution of the deed of disposition, be effectual if made by her with the concurrence of her husband, but without acknowledgment. by married women. 3 & 4 Will. 4. c. 74. 20 & 21 Vict. c. 5.

(2) The separate examination of a married woman shall not be necessary as a preliminary to any order of the court directing payment or transfer of any money or property to her or in accordance with her directions.

(3) Where the court, under any statutory power, dispenses in any case with the concurrence of the husband, and the court is satisfied that the wife is entitled for her separate use to the property to be dealt with, the court may by the order declare that the disposition shall have the same effect as if the husband had concurred therein and had disposed of his rights and interests, and the disposition by the wife alone shall take effect accordingly without acknowledgment.

(4) This section applies only to deeds executed and orders made after the commencement of this Act, and does not render necessary the concurrence of a husband in any deed where such concurrence would not have been requisite if this section had not been passed.

168.—(1) A married woman has power by deed to disclaim any estate or interest in land with or without the concurrence of her husband as the case may require. Disclaimer by married woman.

(2) A husband is not a necessary party to any disclaimer by his wife where—

(*a*) the wife, if there were no disclaimer, would have been entitled to the property for her separate use or as her separate property; or

(*b*) the property consists of a trust estate.

169. Where a married woman is restrained from anticipation or from alienation in respect of any property or any interest in property belonging to her, or is by law unable to dispose of or bind such property or her interest therein, including a reversionary interest arising under her marriage settlement, the court may, if it thinks fit, where it appears to the court to be for her benefit, by judgment or order, with her consent, bind her interest in such property. Power for court to bind interest of married woman.

Acquisitions and dispositions of trust estates by married women.

170.—(1) A married woman is able to acquire as well from her husband as from any other person, and hold, any interest in property real or personal either solely or jointly with any other person (whether or not including her husband) as a trustee or personal representative, in like manner as if she were a feme sole; and no interest in such property shall vest or be deemed to have vested in the husband by reason only of the acquisition by his wife.

(2) A married woman is able, without her husband, to dispose of, or to join in disposing of, any interest in real or personal property held by her solely or jointly with any other person (whether or not including her husband) as trustee or personal representative, in like manner as if she were a feme sole.

(3) This section applies to a woman married after the thirty-first day of December, eighteen hundred and eighty-two, and to a woman married before the first day of January, eighteen hundred and eighty-three, who became a trustee or personal representative on or after that date.

(4) This section operates to render valid and confirm all such acquisitions and dispositions made after the thirty-first day of December, eighteen hundred and eighty-two, whether before or after the commencement of this Act, but where any title or right has been acquired through or with the concurrence of the husband before the first day of January, nineteen hundred and eight, that title or right shall prevail over any title or right which would otherwise be rendered valid by this section or any enactment which it replaces.

(5) This section does not prejudicially affect any beneficial interest of the husband of any such woman.

Lunatics.

Power for court to settle the beneficial interests of a lunatic or defective.

171.—(1) The court may direct a settlement to be made of the property of a lunatic or defective, or any part thereof or any interest therein, on such trusts and subject to such powers and provisions as the court may deem expedient, and in particular may give such directions—

(*a*) where the lunatic or defective is the holder of a title of honour, and the property would not

devolve with such title either under a testamentary disposition executed by him, or on his intestacy if he died intestate; or

(*b*) where the property has been acquired under a settlement, a will or an intestacy, or represents property so acquired; or

(*c*) where by reason of any change in the law of intestacy or of any change in circumstances since the execution by the lunatic or defective of a testamentary disposition, or of any absence of information at the time of such execution, or on account of the former management of the property or the expenditure of money in improving or maintaining the same or for any other special reason the court is satisfied that any person might suffer an injustice if the property were allowed to devolve as undisposed of on the death intestate of the lunatic or defective or under any testamentary disposition executed by him.

(2) The court may direct the committee or receiver of the lunatic or defective, or any trustee for him, to execute any vesting instrument, trust instrument, conveyance (including a disentailing assurance) or other instrument, and to do any other act or thing which may be required for giving effect to the settlement, in the name and on behalf of the lunatic or defective, and, for that purpose, may make a vesting order or appoint a person to convey; and any settlement approved by the court shall be as effectual and binding on all persons interested as if the same had been made by the lunatic or defective while of full capacity.

(3) This section applies whether or not the lunatic or defective has executed a testamentary disposition and notwithstanding that it is not known whether he has executed such a disposition or not, but does not apply when he is an infant.

(4) Any person who under the Administration of Estates Act, 1925, has, or if that Act, or any enactment which it replaces, had not been passed would have had, a spes successionis (whether under any testamentary disposition which is known to exist or in the event of the intestacy of the lunatic or defective) or an interest in the property of the lunatic or defective or in any

15 Geo. 5. c. 23.

part thereof, as well as the committee or receiver and any other person who may be authorised by rules made under this section, shall have power to apply to the court for an order under this section.

(5) Subject to making due provision for the maintenance of the lunatic or defective in accordance with his station in life, whether out of the capital or income of the property settled or other property or partly in one way and partly in another, and to providing, by means of a power of appointment or revocation, or otherwise, for the possibility of the lunatic or defective recovering full capacity, the court may, in making any order under this section, have regard to—

(i) the manner in which the property has been settled or dealt with on former occasions;

(ii) in the case of land, the welfare of the labourers and other persons employed thereon, and the expediency of settling personal estate to devolve therewith;

(iii) the continuation or provision of any pensions, and the application of any part of the income for charitable purposes;

(iv) the provisions of any testamentary disposition of the lunatic or defective;

(v) the expediency of providing for—

(*a*) jointures, portions, and other annual or capital charges and powers to create the same;

(*b*) discretionary trusts, trusts for effecting or maintaining policies of insurance, powers of appointment, sinking funds for making good loss by fire (in lieu of, or in addition to, insurance) or for any other purpose;

(*c*) the extension of any statutory powers of investment, management or otherwise;

(*d*) the manner in which any costs are to be raised and paid, whether out of the settled property or otherwise;

(*e*) any other matter or thing which, having regard to the nature of the settlement, or the property to be settled, and the management, development, and enjoyment thereof, and to the persons who are to take, either successively or otherwise, the court may consider material.

(6) In this section, "testamentary disposition" means an instrument executed by the lunatic or defective while of full testamentary capacity, which, if unrevoked, might, on his death, be proved as a will or codicil; and the court may act on such evidence as to the existence or absence of a testamentary disposition as it thinks fit.

(7) At any time before the death of the lunatic or defective, the court may, as respects any property remaining subject to the trusts of a settlement made under this section, on being satisfied that any material fact was not disclosed to the court when the settlement was made, or on account of any substantial change in circumstances, by order vary the settlement in such manner as it thinks fit, and give any consequential directions.

(8) For the purposes of this section, "the court" means the Judge in Lunacy, or, in such cases as may be prescribed by rules of court, the High Court.

(9) Rules in lunacy or, as respects cases within the jurisdiction of the High Court, rules of court, may be made for giving effect to the provisions of this section, and in particular for compelling information to be furnished respecting, and production of, testamentary dispositions, and the lodgment thereof in court, for prescribing what notices, if any, of the proceedings are to be served, for dispensing with such notices and, when necessary, for making representation orders.

See the Rules in Lunacy 1925 W.N. 40

Part IX.

Voidable Dispositions.

Voluntary conveyances to defraud creditors voidable.

172.—(1) Save as provided in this section, every conveyance of property, made whether before or after the commencement of this Act, with intent to defraud creditors, shall be voidable, at the instance of any person thereby prejudiced.

(2) This section does not affect the operation of a disentailing assurance, or the law of bankruptcy for the time being in force.

(3) This section does not extend to any estate or interest in property conveyed for valuable consideration and in good faith or upon good consideration

and in good faith to any person not having, at the time of the conveyance, notice of the intent to defraud creditors.

Voluntary disposition of land how far voidable as against purchasers.

173.—(1) Every voluntary disposition of land made with intent to defraud a subsequent purchaser is voidable at the instance of that purchaser.

(2) For the purposes of this section, no voluntary disposition, whenever made, shall be deemed to have been made with intent to defraud by reason only that a subsequent conveyance for valuable consideration was made, if such subsequent conveyance was made after the twenty-eighth day of June, eighteen hundred and ninety-three.

Acquisitions of reversions at an under value.

174.—(1) No acquisition made in good faith, without fraud or unfair dealing, of any reversionary interest in real or personal property, for money or money's worth, shall be liable to be opened or set aside merely on the ground of under value.

In this subsection "reversionary interest" includes an expectancy or possibility.

(2) This section does not affect the jurisdiction of the court to set aside or modify unconscionable bargains.

PART X.

WILLS.

Contingent and future testamentary gifts to carry the intermediate income.

175.—(1) A contingent or future specific devise or bequest of property, whether real or personal, and a contingent residuary devise of freehold land, and a specific or residuary devise of freehold land to trustees upon trust for persons whose interests are contingent or executory shall, subject to the statutory provisions relating to accumulations, carry the intermediate income of that property from the death of the testator, except so far as such income, or any part thereof, may be otherwise expressly disposed of.

(2) This section applies only to wills coming into operation after the commencement of this Act.

Power for tenant in tail in possession

176.—(1) A tenant in tail of full age shall have power to dispose by will, by means of a devise or bequest referring specifically either to the property or to the

instrument under which it was acquired or to entailed property generally— to dispose of property by specific devise or bequest.

(*a*) of all property of which he is tenant in tail in possession at his death; and

(*b*) of money (including the proceeds of property directed to be sold) subject to be invested in the purchase of property, of which if it had been so invested he would have been tenant in tail in possession at his death;

in like manner as if, after barring the entail, he had been tenant in fee-simple or absolute owner thereof for an equitable interest at his death, but, subject to and in default of any such disposition by will, such property shall devolve in the same manner as if this section had not been passed.

(2) This section applies to entailed interests authorised to be created by this Act as well as to estates tail created before the commencement of this Act, but does not extend to a tenant in tail who is by statute restrained from barring or defeating his estate tail, whether the land or property in respect whereof he is so restrained was purchased with money provided by Parliament in consideration of public services or not, or to a tenant in tail after possibility of issue extinct, and does not render any interest which is not disposed of by the will of the tenant in tail liable for his debts or other liabilities.

(3) In this section "tenant in tail" includes an owner of a base fee in possession who has power to enlarge the base fee into a fee-simple without the concurrence of any other person.

(4) This section only applies to wills executed after the commencement of this Act, or confirmed or republished by codicil executed after such commencement.

177.—(1) A will expressed to be made in contemplation of a marriage shall, notwithstanding anything in section eighteen of the Wills Act, 1837, or any other statutory provision or rule of law to the contrary, not be revoked by the solemnisation of the marriage contemplated. Wills in contemplation of marriage. 7 Will. 4. & 1 Vict. c. 26.

(2) This section only applies to wills made after the commencement of this Act.

Power for persons having no issue to dispose of real estate by will.

178. Section three of the Wills Act, 1837, shall (without prejudice to the rights and interests of a personal representative) authorise and be deemed always to have authorised any person to dispose of real property or chattels real by will notwithstanding that by reason of illegitimacy or otherwise he did not leave an heir or next of kin surviving him.

Prescribed forms for reference in wills.

179. The Lord Chancellor may from time to time prescribe and publish forms to which a testator may refer in his will, and give directions as to the manner in which they may be referred to, but, unless so referred to, such forms shall not be deemed to be incorporated in a will.

PART XI.

MISCELLANEOUS.

Miscellaneous.

Provisions as to corporations.

180.—(1) Where either after or before the commencement of this Act any property or any interest therein is or has been vested in a corporation sole (including the Crown), the same shall, unless and until otherwise disposed of by the corporation, pass and devolve to and vest in and be deemed always to have passed and devolved to or vested in the successors from time to time of such corporation.

(2) Where either after or before the commencement of this Act there is or has been a vacancy in the office of a corporation sole or in the office of the head of a corporation aggregate (in any case in which the vacancy affects the status or powers of the corporation) at the time when, if there had been no vacancy, any interest in or charge on property would have been acquired by the corporation, such interest shall notwithstanding such vacancy vest and be deemed to have vested in the successor to such office on his appointment as a corporation sole, or in the corporation aggregate (as the case may be), but without prejudice to the right of such successor, or of the corporation aggregate after the appointment of its head officer, to disclaim that interest or charge.

(3) Any contract or other transaction expressed or purported to be made with a corporation sole, or any appointment of a corporation sole as a custodian or other trustee or as a personal representative, at a time

(either after or before the commencement of this Act) when there was a vacancy in the office, shall on the vacancy being filled take effect and be deemed to have taken effect as if the vacancy had been filled before the contract, transaction or appointment was expressed to be made or was capable of taking effect, and on the appointment of a successor shall be capable of being enforced, accepted, disclaimed or renounced by him.

Dissolution of a corporation.

181. Where, by reason of the dissolution of a corporation either before or after the commencement of this Act, a legal estate in any property has determined, the court may by order create a corresponding estate and vest the same in the person who would have been entitled to the estate which determined had it remained a subsisting estate.

Protection of solicitor and trustees adopting Act.

182.—(1) The powers given by this Act to any person, and the covenants, provisions, stipulations, and words which under this Act are to be deemed to be included or implied in any instrument, or are by this Act made applicable to any contract for sale or other transaction, are and shall be deemed in law proper powers, covenants, provisions, stipulations, and words, to be given by or to be contained in any such instrument, or to be adopted in connexion with, or applied to, any such contract or transaction, and a solicitor shall not be deemed guilty of neglect or breach of duty, or become in any way liable, by reason of his omitting, in good faith, in any such instrument, or in connexion with any such contract or transaction, to negative the giving, inclusion, implication, or application of any of those powers, covenants, provisions, stipulations, or words, or to insert or apply any others in place thereof, in any case where the provisions of this Act would allow of his doing so.

(2) But, save as expressly provided by this Act, nothing in this Act shall be taken to imply that the insertion in any such instrument, or the adoption in connexion with, or the application to, any contract or transaction, of any further or other powers, covenants, provisions, stipulations, or words is improper.

(3) Where the solicitor is acting for trustees, executors, or other persons in a fiduciary position, those persons shall also be protected in like manner.

(4) Where such persons are acting without a solicitor, they shall also be protected in like manner.

Fraudulent concealment of documents and falsification of pedigrees.

183.—(1) Any person disposing of property or any interest therein for money or money's worth to a purchaser, or the solicitor or other agent of such person, who—

(*a*) conceals from the purchaser any instrument or incumbrance material to the title; or

(*b*) falsifies any pedigree upon which the title may depend in order to induce the purchaser to accept the title offered or produced;

with intent in any of such cases to defraud, is guilty of a misdemeanour punishable by fine, or by imprisonment for a term not exceeding two years, or by both.

(2) Any such person or his solicitor or agent is also liable to an action for damages by the purchaser or the persons deriving title under him for any loss sustained by reason of—

(*a*) the concealment of the instrument or incumbrance; or

(*b*) any claim made by a person under such pedigree whose right was concealed by such falsification as aforesaid.

(3) In estimating damages, where the property or any interest therein is recovered from the purchaser or the persons deriving title under him, regard shall be had to any expenditure by him or them in improvements of any land.

(4) No prosecution for any offence under this section shall be commenced without the leave of the Attorney-General.

(5) Before leave to prosecute is granted there shall be given to the person intended to be prosecuted such notice of the application for leave to prosecute as the Attorney-General may direct.

Presumption of survivorship in regard to claims to property.

184. In all cases where, after the commencement of this Act, two or more persons have died in circumstances rendering it uncertain which of them survived the other or others, such deaths shall (subject to any order of the court), for all purposes affecting the title to property, be

presumed to have occurred in order of seniority, and accordingly the younger shall be deemed to have survived the elder.

Merger.

185. There is no merger by operation of law only of any estate the beneficial interest in which would not be deemed to be merged or extinguished in equity.

Rights of pre-emption capable of release.

186. All statutory and other rights of pre-emption affecting a legal estate shall be and be deemed always to have been capable of release, and unless released shall remain in force as equitable interests only.

Legal easements.

187.—(1) Where an easement, right or privilege for a legal estate is created, it shall enure for the benefit of the land to which it is intended to be annexed.

(2) Nothing in this Act affects the right of a person to acquire, hold or exercise an easement, right or privilege over or in relation to land for a legal estate in common with any other person, or the power of creating or conveying such an easement right or privilege.

Power to direct division of chattels.

188. Where any chattels belong to persons in undivided shares, the persons interested in a moiety or upwards may apply to the court for an order for division of the chattels or any of them, according to a valuation or otherwise, and the court may make such order and give any consequential directions as it thinks fit.

Indemnities against rents.

189.—(1) A power of distress given by way of indemnity against a rent or any part thereof payable in respect of any land, or against the breach of any covenant or condition in relation to land, is not and shall not be deemed ever to have been a bill of sale within the meaning of the Bills of Sale Acts, 1878 and 1882, as amended by any subsequent enactment.

(2) The benefit of all covenants and powers given by way of indemnity against a rent or any part thereof payable in respect of land, or against the breach of any covenant or condition in relation to land, is and shall be deemed always to have been annexed to the land to which the indemnity is intended to relate, and may be enforced by the estate owner for the time being of the whole or any part of that land, notwithstanding that the benefit may not have been expressly apportioned or assigned to him or to any of his predecessors in title.

Redemption and Apportionment of Rents, &c.

Equitable apportionment of rents and remedies for non-payment or breach of covenant.

190.—(1) Where in a conveyance for valuable consideration, other than a mortgage, of part of land which is affected by a rentcharge, such rentcharge or a part thereof is, without the consent of the owner thereof, expressed to be—

(*a*) charged exclusively on the land conveyed or any part thereof in exoneration of the land retained or other land; or

(*b*) charged exclusively on the land retained or any part thereof in exoneration of the land conveyed or other land ; or

(*c*) apportioned between the land conveyed or any part thereof, and the land retained by the grantor or any part thereof;

then, without prejudice to the rights of the owner of the rentcharge, such charge or apportionment shall be binding as between the grantor and the grantee under the conveyance and their respective successors in title.

(2) Where—

(*a*) any default is made in payment of the whole or part of a rentcharge by the person who, by reason of such charge or apportionment as aforesaid, is liable to pay the same; or

(*b*) any breach occurs of any of the covenants (other than in the case of an apportionment the covenant to pay the entire rentcharge) or conditions contained in the deed or other document creating the rentcharge, so far as the same relate to the land retained or conveyed, as the case may be;

the owner for the time being of any other land affected by the entire rentcharge who—

(i) pays or is required to pay the whole or part of the rentcharge which ought to have been paid by the defaulter aforesaid; or

(ii) incurs any costs, damages or expenses by reason of the breach of covenant or condition aforesaid;

may enter into and distrain on the land in respect of which the default or breach is made or occurs, or any part of that land, and dispose according to law of any distress found, and may also take possession of the

income of the same land until, by means of such distress and receipt of income or otherwise the whole or part of the rentcharge (charged or apportioned as aforesaid) so unpaid and all costs, damages and expenses incurred by reason of the non-payment thereof or of the breach of the said covenants and conditions, are fully paid or satisfied.

(3) Where in a conveyance for valuable consideration, other than a mortgage, of part of land comprised in a lease, for the residue of the term or interest created by the lease, the rent reserved by such lease or a part thereof is, without the consent of the lessor, expressed to be—

(*a*) charged exclusively on the land conveyed or any part thereof in exoneration of the land retained by the assignor or other land; or

(*b*) charged exclusively on the land retained by the assignor or any part thereof in exoneration of the land conveyed or other land; or

(*c*) apportioned between the land conveyed or any part thereof and the land retained by the assignor or any part thereof;

then, without prejudice to the rights of the lessor, such charge or apportionment shall be binding as between the assignor and the assignee under the conveyance and their respective successors in title.

(4) Where—

(*a*) any default is made in payment of the whole or part of a rent by the person who, by reason of such charge or apportionment as aforesaid, is liable to pay the same; or

(*b*) any breach occurs of any of the lessee's covenants (other than in the case of an apportionment the covenant to pay the entire rent) or conditions contained in the lease, so far as the same relate to the land retained or conveyed, as the case may be;

the lessee for the time being of any other land comprised in the lease, in whom, as respects that land, the residue of the term or interest created by the lease is vested, who—

(i) pays or is required to pay the whole or part of the rent which ought to have been paid by the defaulter aforesaid; or

(ii) incurs any costs, damages or expenses by reason of the breach of covenant or condition aforesaid;

may enter into and distrain on the land comprised in the lease in respect of which the default or breach is made or occurs, or any part of that land, and dispose according to law of any distress found, and may also take possession of the income of the same land until (so long as the term or interest created by the lease is subsisting) by means of such distress and receipt of income or otherwise, the whole or part of the rent (charged or apportioned as aforesaid) so unpaid and all costs, damages and expenses incurred by reason of the non-payment thereof or of the breach of the said covenants and conditions, are fully paid or satisfied.

(5) The remedies conferred by this section take effect so far only as they might have been conferred by the conveyance whereby the rent or any part thereof is expressed to be charged or apportioned as aforesaid, but a trustee, personal representative, mortgagee or other person in a fiduciary position has, and shall be deemed always to have had, power to confer the same or like remedies.

(6) This section applies only if and so far as a contrary intention is not expressed in the conveyance whereby the rent or any part thereof is expressed to be charged or apportioned as aforesaid, and takes effect subject to the terms of that conveyance and to the provisions therein contained.

(7) The remedies conferred by this section apply only where the conveyance whereby the rent or any part thereof is expressed to be charged or apportioned is made after the commencement of this Act, and do not apply where the rent is charged exclusively as aforesaid or legally apportioned with the consent of the owner or lessor.

(8) The rule of law relating to perpetuities does not affect the powers or remedies conferred by this section or any like powers or remedies expressly conferred, before or after the commencement of this Act, by an instrument.

Redemption and apportionment of rents.

191.—(1) Where there is a rent being either—

(*a*) a quit rent, chief rent or other annual or periodical sum issuing out of land; or

(*b*) a rent reserved on a sale, or made payable under a grant or licence (not operating as an agreement for a lease or tenancy) for building purposes; or

(*c*) a compensation rentcharge created as the consideration for the extinguishment of manorial incidents;

the Minister shall at any time, on the requisition of the owner of the land or of any person interested therein, certify the amount of money in consideration whereof the rent may be redeemed.

Where the rent is not perpetual, the Minister may authorise the purchase of a Government annuity of an amount equal to the rent, payable during the residue of the period for which the rent would have been payable, in such names as he may think fit, and give directions as to the payment of the annuity, and the amount required to purchase that annuity shall be the redemption money.

(2) Where the rent is perpetual and was reserved on a sale, or was made payable under a grant or licence for building purposes, the redemption money shall be such sum as would (according to the average price, at the date of redemption, of such Government securities as may for the time being be prescribed by the Treasury) purchase sufficient of such Government securities to yield annual dividends equal to the amount of the yearly rent redeemed.

(3) Where the person entitled to the rent is absolutely entitled thereto in fee simple in possession, or is empowered to dispose thereof absolutely, or to give an absolute discharge for the capital value thereof, the owner of the land, or any person interested therein, may, after serving one month's notice on the person entitled to the rent, pay or tender to that person the amount certified by the Minister.

(4) If the Minister is satisfied—

(*a*) that any person who has been in receipt of a rent, or claims to be entitled thereto, is unable or unwilling to prove his title either to dispose thereof absolutely, or to give an absolute discharge for the capital value thereof, or neglects to apply to any competent body or person for any requisite order or consent; or

(*b*) that a person entitled to the rent or any part thereof cannot be found or ascertained; or

(*c*) that by reason of complications in the title to the rent, or the want of two or more trustees, or for any other reason a tender of the redemption money cannot be effected, or cannot be effected without incurring or involving unreasonable cost or delay;

the Minister may authorise the owner or other person interested in the land affected by the rent to pay the amount of the redemption money certified by the Minister or the Government annuity into court, to an account entitled in the matter of the rent and of the land affected.

(5) On proof to the Minister that such payment (whether into court or otherwise) or tender has been made, he shall certify that the rent is redeemed under this Act; and that certificate shall be final and conclusive, and the land shall be thereby absolutely freed and discharged from the rent.

(6) Any person claiming to be interested in the annuity or fund in court, or who would have been interested in the rent had it not been redeemed, may apply to the court for an order giving directions for the payment of the annuity or of the fund in court or any part thereof, or of the income thereof to the persons entitled to give a receipt therefor, and it shall not be necessary to serve the owner of the land or the Minister with notice of the proceedings.

(7) Where any person interested in the whole or any part of the land affected by the rent desires to effect a discharge of a part of the land, and the remainder of the land is not exonerated or indemnified from the rent by means of a charge on the aforesaid part, the Minister may, on his application, by a certificate, apportion the rent between the aforesaid part of the land and the remainder of the land affected (regard being had to the security which will be left for the payment of any part of the rent, and to any apportionment which is not binding on the owner of the rent), and any apportioned part of the rent shall be redeemable under this section, and, on such redemption, the part of the land to which the redemption applies shall be discharged from the entire rent.

(8) Every requisition under this section shall be in writing; and every certificate under this section may be in writing, sealed with the seal of the Minister.

(9) Rules may be made by the Minister for regulating proceedings to be taken under this section, and as to the manner in which costs are to be borne by the respective parties.

See Redemption of Rents Rules 1925 W. N. 367

(10) All decisions of the Minister made under this section shall (subject only to such appeal to the court as may be prescribed by rules of court) be final.

See R. S. C. 1925 1925 W. N. 332

(11) This section applies whether or not the rent is settled or is held on trust for sale, or on trust for charitable, ecclesiastical, public or other purposes, or is subject to incumbrances, and whether the rent was created before or after the commencement of this Act.

(12) This section does not apply to tithe rentcharge or a charge or other payment redeemable under the Tithe Acts, 1836 to 1918, or to a rent reserved by a lease or tenancy.

Apportionment of charges payable for redemption of tithe rentcharge. 17 & 18 Vict. c. 97.

192. An order of apportionment of a charge on land by way of annuity for redemption of tithe rentcharge may be made by the Minister under sections ten to fourteen (inclusive) of the Inclosure Act, 1854, on the application of any person interested, according to the provisions of the Inclosure Acts, 1845 to 1882, in the land charged or any part thereof without the concurrence of any other person:

Provided that the Minister may, in any such case, on the application of any person interested in the annuity, require as a condition of making the order that any apportioned part of the annuity which does not exceed the yearly sum of two pounds shall be redeemed forthwith.

Commons and Waste Lands.

Rights of the public over commons and waste lands.

193.—(1) Members of the public shall, subject as hereinafter provided, have rights of access for air and exercise to any land which is a metropolitan common within the meaning of the Metropolitan Commons Acts, 1866 to 1898, or manorial waste, or a common which is wholly or partly situated within a borough or urban district, and to any land which at the commencement of this Act is subject to rights of common and to which

this section may from time to time be applied in manner hereinafter provided :

Provided that—

(*a*) such rights of access shall be subject to any Act, scheme, or provisional order for the regulation of the land, and to any byelaw, regulation or order made thereunder or under any other statutory authority; and

(*b*) the Minister shall, on the application of any person entitled as lord of the manor or otherwise to the soil of the land, or entitled to any commonable rights affecting the land, impose such limitations on and conditions as to the exercise of the rights of access or as to the extent of the land to be affected as, in the opinion of the Minister, are necessary or desirable for preventing any estate, right or interest of a profitable or beneficial nature in, over, or affecting the land from being injuriously affected, or for protecting any object of historical interest and, where any such limitations or conditions are so imposed, the rights of access shall be subject thereto; and

(*c*) such rights of access shall not include any right to draw or drive upon the land a carriage, cart, caravan, truck, or other vehicle, or to camp or light any fire thereon; and

(*d*) the rights of access shall cease to apply—

(i) to any land over which the commonable rights are extinguished under any statutory provision;

(ii) to any land over which the commonable rights are otherwise extinguished if the council of the county or county borough in which the land is situated by resolution assent to its exclusion from the operation of this section, and the resolution is approved by the Minister.

(2) The lord of the manor or other person entitled to the soil of any land subject to rights of common may by deed, revocable or irrevocable, declare that this section shall apply to the land, and upon such deed being deposited with the Minister the land shall, so long as the deed remains operative, be land to which this section applies.

(3) Where limitations or conditions are imposed by the Minister under this section, they shall be published by such person and in such manner as the Minister may direct.

(4) Any person who, without lawful authority, draws or drives upon any land to which this section applies any carriage, cart, caravan, truck, or other vehicle, or camps or lights any fire thereon, or who fails to observe any limitation or condition imposed by the Minister under this section in respect of any such land, shall be liable on summary conviction to a fine not exceeding forty shillings for each offence.

(5) Nothing in this section shall prejudice or affect the right of any person to get and remove mines or minerals or to let down the surface of the manorial waste or common.

(6) This section does not apply to any common or manorial waste which is for the time being held for Naval, Military or Air Force purposes and in respect of which rights of common have been extinguished or cannot be exercised.

Restrictions on inclosure of commons.

194.—(1) The erection of any building or fence, or the construction of any other work, whereby access to land to which this section applies is prevented or impeded, shall not be lawful unless the consent of the Minister thereto is obtained, and in giving or withholding his consent the Minister shall have regard to the same considerations and shall, if necessary, hold the same inquiries as are directed by the Commons Act, 1876, to be taken into consideration and held by the Minister before forming an opinion whether an application under the Inclosure Acts, 1845 to 1882, shall be acceded to or not.

(2) Where any building or fence is erected, or any other work constructed without such consent as is required by this section, the county court within whose jurisdiction the land is situated, shall, on an application being made by the council of any county or borough or district concerned, or by the lord of the manor or any other person interested in the common, have power to make an order for the removal of the work, and the restoration of the land to the condition in which it was before the work was erected or constructed, but any such order shall be subject to the like appeal as an order made under section thirty of the Commons Act, 1876.

(3) This section applies to any land which at the commencement of this Act is subject to rights of common:

Provided that this section shall cease to apply—

(*a*) to any land over which the rights of common are extinguished under any statutory provision;

(*b*) to any land over which the rights of common are otherwise extinguished, if the council of the county or county borough in which the land is situated by resolution assent to its exclusion from the operation of this section and the resolution is approved by the Minister.

(4) This section does not apply to any building or fence erected or work constructed if specially authorised by Act of Parliament, or in pursuance of an Act of Parliament or Order having the force of an Act, or if lawfully erected or constructed in connexion with the taking or working of minerals in or under any land to which the section is otherwise applicable, or to any telegraphic line as defined by the Telegraph Act, 1878 of the Postmaster-General.

Judgments, &c. affecting Land.

Equitable charges in right of judgment debt, &c.

195.—(1) Subject as hereinafter mentioned a judgment entered up in the Supreme Court (whether before or after the commencement of this Act) against any person (in this section called a "judgment debtor") shall operate as an equitable charge upon every estate or interest (whether legal or equitable) in all land to or over which the judgment debtor at the date of entry or at any time thereafter is or becomes—

(*a*) beneficially entitled; or

(*b*) entitled to exercise a power of disposition for his own benefit without the assent of any other person;

and the judgment shall bind—

(i) the judgment debtor; and

(ii) all persons deriving title under him subsequently to the entry of the judgment; and

(iii) all persons capable of being bound by a disposition by the judgment debtor made after the entry of the judgment, including the issue of his body and all other persons, if any, whom he

might, without the assent of another person, have barred from any remainder, reversion or other interest, in the land.

(2) Every judgment creditor shall have the same remedies against the estate or interest in the land so charged or any part thereof as he would have been entitled to if the judgment debtor had power to charge the same, and had by writing, under his hand, agreed to charge the same, with the amount of the judgment debt and interest thereon.

(3) Provided that—

(i) A judgment, whether obtained (on behalf of the Crown or otherwise) before or after the commencement of this Act, shall not operate as a charge on any interest in land or on the unpaid purchase money for any land unless or until a writ or order, for the purpose of enforcing it, is registered in the register of writs and orders at the Land Registry;

(ii) No judgment creditor shall be entitled to take proceedings to obtain the benefit of his charge until after the expiration of one year from the time of entering up the judgment;

(iii) No such charge shall operate to give the judgment creditor any preference, in case of the bankruptcy of the judgment debtor, unless the judgment has been entered up one year at least before the bankruptcy;

(iv) A judgment against a mortgagee, who is paid off before or at the time of a conveyance of an estate or interest in land to a purchaser, shall not create a charge upon the estate or interest in the land vested in the purchaser by such conveyance.

(4) A recognisance, on behalf of the Crown or otherwise, whether entered into before or after the commencement of this Act, and an inquisition finding a debt due to the Crown, and any obligation or specialty made to or in favour of the Crown, whatever may have been its date, shall not operate as a charge on any interest in land, or on the unpaid purchase money for any land, unless or until a writ or order, for the purpose of enforcing it, is registered in the register of writs and orders at the Land Registry.

(5) In this section "judgment" includes any decree, order, or rule having the effect of a judgment.

Notices.

Regulations respecting notices.

196.—(1) Any notice required or authorised to be served or given by this Act shall be in writing.

(2) Any notice required or authorised by this Act to be served on a lessee or mortgagor shall be sufficient, although only addressed to the lessee or mortgagor by that designation, without his name, or generally to the persons interested, without any name, and notwithstanding that any person to be affected by the notice is absent, under disability, unborn, or unascertained.

(3) Any notice required or authorised by this Act to be served shall be sufficiently served if it is left at the last-known place of abode or business in the United Kingdom of the lessee, lessor, mortgagee, mortgagor, or other person to be served, or, in case of a notice required or authorised to be served on a lessee or mortgagor, is affixed or left for him on the land or any house or building comprised in the lease or mortgage, or, in case of a mining lease, is left for the lessee at the office or counting-house of the mine.

(4) Any notice required or authorised by this Act to be served shall also be sufficiently served, if it is sent by post in a registered letter addressed to the lessee, lessor, mortgagee, mortgagor, or other person to be served, by name, at the aforesaid place of abode or business, office, or counting-house, and if that letter is not returned through the post-office undelivered; and that service shall be deemed to be made at the time at which the registered letter would in the ordinary course be delivered.

(5) The provisions of this section shall extend to notices required to be served by any instrument affecting property executed or coming into operation after the commencement of this Act unless a contrary intention appears.

(6) This section does not apply to notices served in proceedings in the court.

Notice of memorials registered in Middlesex and Yorkshire.

197.—(1) The registration in a local deeds registry of a memorial of any instrument transferring or creating a legal estate or charge by way of legal mortgage, shall be deemed to constitute actual notice of the transfer or creation of the legal estate or charge by way of legal

mortgage, to all persons and for all purposes whatsoever, as from the date of registration or other prescribed date, and so long as the registration continues in force.

(2) The registration of a memorial of an instrument not required to be registered does not operate to give notice of such instrument or of the contents thereof.

(3) This section operates without prejudice to the provisions of this Act respecting the making of further advances by a mortgagee, and only applies to land within the jurisdiction of the registry.

Registration under the Land Charges Act, 1925, to be notice.

198.—(1) The registration of any instrument or matter under the provisions of the Land Charges Act, 1925, or any enactment which it replaces, in any register kept at the land registry or elsewhere, shall be deemed to constitute actual notice of such instrument or matter, and of the fact of such registration, to all persons and for all purposes connected with the land affected, as from the date of registration or other prescribed date and so long as the registration continues in force.

(2) This section operates without prejudice to the provisions of this Act respecting the making of further advances by a mortgagee, and applies only to instruments and matters required or authorised to be registered under the Land Charges Act, 1925.

Restrictions on constructive notice.

199.—(1) A purchaser shall not be prejudicially affected by notice of—

(i) any instrument or matter capable of registration under the provisions of the Land Charges Act, 1925, or any enactment which it replaces, which is void or not enforceable as against him under that Act or enactment, by reason of the non-registration thereof;

(ii) any other instrument or matter or any fact or thing unless—

(*a*) it is within his own knowledge, or would have come to his knowledge if such inquiries and inspections had been made as ought reasonably to have been made by him; or

(*b*) in the same transaction with respect to which a question of notice to the purchaser arises, it has come to the knowledge of his counsel, as such, or of his solicitor or other agent, as such, or would have come to the knowledge of his solicitor or other agent, as

such, if such inquiries and inspections had been made as ought reasonably to have been made by the solicitor or other agent.

(2) Paragraph (ii) of the last subsection shall not exempt a purchaser from any liability under, or any obligation to perform or observe, any covenant, condition, provision, or restriction contained in any instrument under which his title is derived, mediately or immediately; and such liability or obligation may be enforced in the same manner and to the same extent as if that paragraph had not been enacted.

(3) A purchaser shall not by reason of anything in this section be affected by notice in any case where he would not have been so affected if this section had not been enacted.

(4) This section applies to purchases made either before or after the commencement of this Act.

Notice of restrictive covenants and easements.

200.—(1) Where land having a common title with other land is disposed of to a purchaser (other than a lessee or a mortgagee) who does not hold or obtain possession of the documents forming the common title, such purchaser, notwithstanding any stipulation to the contrary, may require that a memorandum giving notice of any provision contained in the disposition to him restrictive of user of, or giving rights over, any other land comprised in the common title, shall, where practicable, be written or indorsed on, or, where impracticable, be permanently annexed to some one document selected by the purchaser but retained in the possession or power of the person who makes the disposition, and being or forming part of the common title.

(2) The title of any person omitting to require an indorsement to be made or a memorandum to be annexed shall not, by reason only of this enactment, be prejudiced or affected by the omission.

(3) This section does not apply to dispositions of registered land.

(4) Nothing in this section affects the obligation to register a land charge in respect of—

(*a*) any restrictive covenant or agreement affecting freehold land; or

(*b*) any estate contract; or

(*c*) any equitable easement, liberty or privilege.

Part XII.

Construction, Jurisdiction, and General Provisions.

Provisions of Act to apply to incorporeal hereditaments.

201.—(1) The provisions of this Act relating to freehold land apply to manors, reputed manors, lordships, advowsons, tithe and perpetual rentcharges, and other incorporeal hereditaments, subject only to the qualifications necessarily arising by reason of the inherent nature of the hereditament affected.

61 & 62 Vict. c. 48.

(2) This Act does not affect the special restrictions imposed on dealings with advowsons by the Benefices Act, 1898, or any other statute or measure, nor affect the limitation of, or authorise any disposition to be made of, a title or dignity of honour which in its nature is inalienable.

(3) This section takes effect subject to the express provisions of this Act relating to undivided shares.

Provisions as to enfranchisement of copyholds, &c.

202. For giving effect to this Act, the enfranchisement of copyhold land, and the conversion into long terms of perpetually renewable leaseholds, and of leases for lives and of leases for years terminable with life or lives or on marriage, effected by the Law of Property Act, 1922, as amended by any subsequent enactment, shall be deemed to have been effected immediately before the commencement of this Act.

Payment into court, jurisdiction and procedure.

203.—(1) Payment of money into court effectually exonerates therefrom the person making the payment.

(2) Subject to any rules of court to the contrary—

(*a*) Every application to the court under this Act shall, save as otherwise expressly provided, be by summons at chambers;

(*b*) On an application by a purchaser notice shall be served in the first instance on the vendor;

(*c*) On an application by a vendor notice shall be served in the first instance on the purchaser;

(*d*) On any application notice shall be served on such persons, if any, as the court thinks fit.

(3) In this Act, unless the contrary intention appears, "the court" means the High Court, and also the Court of Chancery of the County Palatine of Lancaster or the Court of Chancery of the County Palatine of Durham, or the county court, where those courts respectively have jurisdiction.

(4) All matters within the jurisdiction of the High Court under this Act shall, save as otherwise expressly provided, and subject to the enactments for the time being in force with respect to the Supreme Court of Judicature, be assigned to the Chancery Division of the court.

(5) The court shall have full power and discretion to make such order as it thinks fit respecting the costs, charges and expenses of all or any of the parties to any application.

Orders of court conclusive.

204.—(1) An order of the court under any statutory or other jurisdiction shall not, as against a purchaser, be invalidated on the ground of want of jurisdiction, or of want of any concurrence, consent, notice, or service, whether the purchaser has notice of any such want or not.

(2) This section has effect with respect to any lease, sale, or other act under the authority of the court, and purporting to be in pursuance of any statutory power notwithstanding any exception in such statute.

(3) This section applies to all orders made before or after the commencement of this Act.

General definitions.

205.—(1) In this Act unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say :—

(i) "Bankruptcy" includes liquidation by arrangement; also in relation to a corporation means the winding up thereof;

(ii) "Conveyance" includes a mortgage, charge, lease, assent, vesting declaration, vesting instrument, disclaimer, release and every other assurance of property or of an interest therein by any instrument, except a will; "convey" has a corresponding meaning; and "disposition" includes a conveyance and also a devise, bequest, or an appointment of property contained in a will; and "dispose of" has a corresponding meaning;

(iii) "Building purposes" include the erecting and improving of, and the adding to, and the repairing of buildings; and a "building lease" is a lease for building purposes or purposes connected therewith;

(iv) "Death duty" means estate duty, succession duty, legacy duty, and every other duty leviable or payable on a death;

(v) "Estate owner" means the owner of a legal estate, but an infant is not capable of being an estate owner;

(vi) "Gazette" means the London Gazette;

(vii) "Incumbrance" includes a legal or equitable mortgage and a trust for securing money, and a lien, and a charge of a portion, annuity, or other capital or annual sum; and "incumbrancer" has a meaning corresponding with that of incumbrance, and includes every person entitled to the benefit of an incumbrance, or to require payment or discharge thereof;

(viii) "Instrument" does not include a statute, unless the statute creates a settlement;

(ix) "Land" includes land of any tenure, and mines and minerals, whether or not held apart from the surface, buildings or parts of buildings (whether the division is horizontal, vertical or made in any other way) and other corporeal hereditaments; also a manor, an advowson, and a rent and other incorporeal hereditaments, and an easement, right, privilege, or benefit in, over, or derived from land; but not an undivided share in land; and "mines and minerals" include any strata or seam of minerals or substances in or under any land, and powers of working and getting the same but not an undivided share thereof; and "manor" includes a lordship, and reputed manor or lordship; and "hereditament" means any real property which on an intestacy occurring before the commencement of this Act might have devolved upon an heir;

(x) "Legal estates" mean the estates, interests and charges, in or over land (subsisting or created at law) which are by this Act authorised to subsist or to be created as legal estates; "equitable interests" mean all the other interests and charges in or over land or in the proceeds of sale thereof; an equitable interest

"capable of subsisting as a legal estate" means such as could validly subsist or be created as a legal estate under this Act;

(xi) "Legal powers" include the powers vested in a chargee by way of legal mortgage or in an estate owner under which a legal estate can be transferred or created; and "equitable powers" mean all the powers in or over land under which equitable interests or powers only can be transferred or created;

(xii) "Limitation Acts" mean the Real Property Limitation Acts, 1833, 1837 and 1874, and "limitation" includes a trust;

(xiii) "Lunatic" includes a lunatic whether so found or not, and, in relation to a lunatic not so found, "committee" includes a person on whom the powers of a committee are conferred under section one of the Lunacy Act, 1908; "defective" includes every person affected by the provisions of section one hundred and sixteen of the Lunacy Act, 1890, as extended by section sixty-four of the Mental Deficiency Act, 1913, and for whose benefit a receiver has been appointed;

(xiv) A "mining lease" means a lease for mining purposes, that is, the searching for, winning, working, getting, making merchantable, carrying away, or disposing of mines and minerals, or purposes connected therewith, and includes a grant or licence for mining purposes;

(xv) "Minister" means the Minister of Agriculture and Fisheries";

(xvi) "Mortgage" includes any charge or lien on any property for securing money or money's worth; "legal mortgage" means a mortgage by demise or subdemise or a charge by way of legal mortgage and "legal mortgagee" has a corresponding meaning; "mortgage money" means money or money's worth secured by a mortgage; "mortgagor" includes any person from time to time deriving title under the original mortgagor or entitled to redeem a mortgage according to his estate interest or right in the mortgaged property; "mortgagee" includes a chargee by way of legal mortgage and any person from time

to time deriving title under the original mortgagee; and "mortgagee in possession" is, for the purposes of this Act, a mortgagee who, in right of the mortgage, has entered into and is in possession of the mortgaged property; and "right of redemption" includes an option to repurchase only if the option in effect creates a right of redemption;

(xvii) "Notice" includes constructive notice;

(xviii) "Personal representative" means the executor, original or by representation, or administrator for the time being of a deceased person, and as regards any liability for the payment of death duties includes any person who takes possession of or intermeddles with the property of a deceased person without the authority of the personal representatives or the court;

(xix) "Possession" includes receipt of rents and profits or the right to receive the same, if any; and "income" includes rents and profits;

(xx) "Property" includes any thing in action, and any interest in real or personal property;

(xxi) "Purchaser" means a purchaser in good faith for valuable consideration and includes a lessee, mortgagee or other person who for valuable consideration acquires an interest in property except that in Part I. of this Act and elsewhere where so expressly provided "purchaser" only means a person who acquires an interest in or charge on property for money or money's worth; and in reference to a legal estate includes a chargee by way of legal mortgage; and where the context so requires "purchaser" includes an intending purchaser; "purchase" has a meaning corresponding with that of "purchaser"; and "valuable consideration" includes marriage but does not include a nominal consideration in money;

(xxii) "Registered land" has the same meaning as in the Land Registration Act, 1925, and "Land Registrar" means the Chief Land Registrar under that Act;

(xxiii) "Rent" includes a rent service or a rentcharge, or other rent, toll, duty, royalty, or annual or periodical payment in money or money's

worth, reserved or issuing out of or charged upon land, but does not include mortgage interest; "rentcharge" includes a fee farm rent; "fine" includes a premium or foregift and any payment, consideration, or benefit in the nature of a fine, premium or foregift; "lessor" includes an underlessor and a person deriving title under a lessor or underlessor; and "lessee" includes an underlessee and a person deriving title under a lessee or under-lessee, and "lease" includes an underlease or other tenancy;

(xxiv) "Sale" includes an extinguishment of manorial incidents, but in other respects means a sale properly so called;

(xxv) "Securities" include stocks, funds and shares;

(xxvi) "Tenant for life," "statutory owner," "settled land," "settlement," "vesting deed," "subsidiary vesting deed," "vesting order," "vesting instrument," "trust instrument," "capital money," and "trustees of the settlement" have the same meanings as in the Settled Land Act, 1925;

(xxvii) "Term of years absolute" means a term of years (taking effect either in possession or in reversion whether or not at a rent) with or without impeachment for waste, subject or not to another legal estate, and either certain or liable to determination by notice, re-entry, operation of law, or by a provision for cesser on redemption, or in any other event (other than the dropping of a life, or the determination of a determinable life interest); but does not include any term of years determinable with life or lives or with the cesser of a determinable life interest, nor, if created after the commencement of this Act, a term of years which is not expressed to take effect in possession within twenty-one years after the creation thereof where required by this Act to take effect within that period; and in this definition the expression "term of years" includes a term for less than a year, or for a year or years and a fraction of a year or from year to year;

(xxviii) "Trust Corporation" means the Public Trustee or a corporation either appointed by the court

As Public Trustee (Custodian Trustee) Rules 1925, 1926 W.N. 7; also the Public Trustee (Custodian Trustee) Rules 1926, 1926 W.N. 266

in any particular case to be a trustee or entitled by rules made under subsection (3) of section four of the Public Trustee Act, 1906, to act as custodian trustee; 6 Edw. 7. c. 55.

(xxix) "Trust for sale," in relation to land, means an immediate binding trust for sale, whether or not exercisable at the request or with the consent of any person, and with or without a power at discretion to postpone the sale; "trustees for sale" mean the persons (including a personal representative) holding land on trust for sale; and "power to postpone a sale" means power to postpone in the exercise of a discretion;

(xxx) "United Kingdom" means Great Britain and Northern Ireland;

(xxxi) "Will" includes codicil.

(2) Where an equitable interest in or power over property arises by statute or operation of law, references to the creation of an interest or power include references to any interest or power so arising.

(3) References to registration under the Land Charges Act, 1925, apply to any registration made under any other statute which is by the Land Charges Act, 1925, to have effect as if the registration had been made under that Act.

Forms of instruments and examples of abstracts.

206.—(1) Instruments in the form of, and using the expressions in the forms given in the Fifth Schedule to this Act, or in the like form or using expressions to the like effect, shall, in regard to form and expression be sufficient.

(2) Examples of abstracts of title framed in accordance with the enactments which will take effect at the commencement of this Act are contained in the Sixth Schedule to this Act.

Repeals as respects England and Wales.

207. The Acts mentioned in the Seventh Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule:

Provided that, without prejudice to the provisions of section thirty-eight of the Interpretation Act, 1889:— 52 & 53 Vict. c. 63.

(*a*) Nothing in this repeal shall affect the validity or legality of any dealing in property or other transaction completed before the commence-

ment of this Act, or any title or right acquired or appointment made before such commencement, but, subject as aforesaid, this Act shall, except where otherwise expressly provided, apply to and in respect of instruments whether made or coming into operation before or after such commencement:

(*b*) Nothing in this repeal shall affect any rules, orders, or other instruments made under any enactment so repealed, but all such rules, orders and instruments shall continue in force as if made under the corresponding enactment in this Act:

(*c*) References in any document to any enactment repealed by this Act shall be construed as references to this Act or to the corresponding enactment in this Act.

Application to the Crown.

208.—(1) Nothing in this Act shall be construed as rendering any property of the Crown subject to distress, or liable to be taken or disposed of by means of any distress.

(2) This Act shall not in any manner (save as otherwise expressly provided and except so far as it relates to undivided shares, joint ownership, leases for lives or leases for years terminable with life or marriage) affect or alter the descent, devolution or tenure or the nature of the estates and interests of or in any land for the time being vested in His Majesty either in right of the Crown or of the Duchy of Lancaster or of or in any land for the time being belonging to the Duchy of Cornwall and held in right or in respect of the said Duchy, but so nevertheless that, after the commencement of this Act, no estates, interests or charges in or over any such lands as aforesaid shall be conveyed or created, except such estates, interests or charges as are capable under this Act of subsisting or of being conveyed or created.

(3) Subject as aforesaid the provisions of this Act bind the Crown.

Short title, commencement, extent.

209.—(1) This Act may be cited as the Law of Property Act, 1925.

(2) This Act shall come into operation on the first day of January, nineteen hundred and twenty-six.

(3) This Act extends to England and Wales only.

SCHEDULES.

FIRST SCHEDULE.

Section 39.

Transitional Provisions.

Part I.

Conversion of certain existing Legal Estates into Equitable Interests.

All estates, interests and charges in or over land, including fees determinable whether by limitation or condition, which immediately before the commencement of this Act were estates, interests or charges, subsisting at law, or capable of taking effect as such, but which by virtue of Part I. of this Act are not capable of taking effect as legal estates, shall as from the commencement of this Act be converted into equitable interests, and shall not fail by reason of being so converted into equitable interests either in the land or in the proceeds of sale thereof, nor shall the priority of any such estate, charge or interest over other equitable interests be affected.

Part II.

Vesting of Legal Estates.

1. Where the purposes of a term of years, created or limited out of leasehold land, are satisfied at the commencement of this Act, that term shall merge in the reversion expectant thereon and shall cease accordingly; but where the term was vested in the owner of the reversion, the merger and cesser shall take effect without prejudice to any protection which would have been afforded to the owner for the time being of that reversion had the term remained subsisting.

Where the purposes are satisfied only as respects part of the land comprised in a term, this provision has effect as if a separate term had been created in regard to that part of the land.

2. Where immediately after the commencement of this Act any owner of a legal estate is entitled, subject or not to the payment of the costs of tracing the title and of conveyance, to require any other legal estate in the same land to be surrendered, released or conveyed to him so as to merge or be extinguished, the last-mentioned estate shall by virtue of this Part of this Schedule be extinguished, but without prejudice to any protection which would have been afforded to him had that estate remained subsisting.

1ST SCH. —*cont.*

3. Where immediately after the commencement of this Act any person is entitled, subject or not to the payment of the costs of tracing the title and of conveyance, to require any legal estate (not vested in trustees for sale) to be conveyed to or otherwise vested in him, such legal estate shall, by virtue of this Part of this Schedule, vest in manner hereinafter provided.

This paragraph shall (without prejudice to any claim, in respect of fines, fees, and other customary payments) apply to a person who, under a surrender or any disposition having the effect of a surrender, or under a covenant to surrender or otherwise, was, immediately before the commencement of this Act, entitled to require a legal customary estate of inheritance to be vested in him, or who, immediately after such commencement becomes entitled to enfranchised land.

4. Any person who, immediately after the commencement of this Act, is entitled to an equitable interest capable of subsisting as a legal estate which has priority over any legal estate in the same land, shall be deemed to be entitled for the foregoing purposes to require a legal estate to be vested in him for an interest of a like nature not exceeding in extent or duration the equitable interest:

Provided that this paragraph shall not—

(*a*) apply where the equitable interest is capable of being over-reached by virtue of a subsisting trust for sale or a settlement;

(*b*) operate to prevent such person from acquiring any other legal estate under this Part of this Schedule to which he may be entitled.

5. For the purposes of this Part of this Schedule, a tenant for life, statutory owner or personal representative, shall be deemed to be entitled to require to be vested in him any legal estate in settled land (whether or not vested in the Crown) which he is, by the Settled Land Act, 1925, given power to convey.

6. Under the provisions of this Part of this Schedule, the legal estate affected (namely, any estate which a person is entitled to require to be vested in him as aforesaid) shall vest as follows:—

(*a*) Where at the commencement of this Act land is subject to a mortgage (not being an equitable charge unsecured by any estate), the legal estate affected shall vest in accordance with the provisions relating to mortgages contained in this Schedule;

(*b*) Where the land is at the commencement or by virtue of this Act or any Act coming into operation at the same time subject or is by virtue of any statute made subject to a trust for sale, the legal estate affected shall vest in the trustees for sale (including personal representatives holding land on trust for sale) but subject to any mortgage term subsisting or created by this Act;

1ST SCH. —*cont.*

(*c*) Where at the commencement of this Act or by virtue of any statute coming into operation at the same time the land is settled land, the legal estate affected shall vest in the tenant for life or statutory owner entitled under the Settled Land Act, 1925, to require a vesting deed to be executed in his favour, or in the personal representative, if any, in whom the land may be vested or the Public Trustee, as the case may require but subject to any mortgage term subsisting or created by this Act;

(*d*) In any case to which the foregoing sub-paragraphs do not apply the legal estate affected shall vest in the person of full age who, immediately after the commencement of this Act, is entitled (subject or not to the payment of costs and any customary payments) to require the legal estate to be vested in him, but subject to any mortgage term subsisting or created by this Act.

7. Nothing in this Part of this Schedule shall operate—

(*a*) To vest in a mortgagee of a term of years absolute any nominal leasehold reversion which is held in trust for him subject to redemption; or

(*b*) To vest in a mortgagee any legal estate except a term of years absolute; or

(*c*) To vest in a person entitled to a leasehold interest, as respects such interest, any legal estate except a term of years absolute; or

(*d*) To vest in a person entitled to a rentcharge (either perpetual or held for a term of years absolute) as respects such rentcharge, any legal estate except a legal estate in the rentcharge; or

(*e*) To vest in a person entitled to an easement, right or privilege with reference thereto, any legal estate except a legal estate in the easement, right or privilege; or

(*f*) To vest any legal estate in a person for an undivided share; or

(*g*) To vest any legal estate in an infant; or

(*h*) To affect prejudicially the priority of any mortgage or other incumbrance or interest subsisting at the commencement of this Act; or

(*i*) To render invalid any limitation or trust which would have been capable of taking effect as an equitable limitation or trust; or

(*j*) To vest in a purchaser or his personal representatives any legal estate which he has contracted to acquire and in regard to which a contract, including an agreement to create a legal mortgage, is pending at the commencement of this Act, although the consideration may have been paid or satisfied and the

1ST SCH. —*cont.*

title accepted, or to render unnecessary the conveyance of such estate; or

(*k*) To vest in the managing trustees or committee of management of a charity any legal estate vested in the Official Trustee of Charity Lands; or

(*l*) To vest in any person any legal estate which failed to pass to him by reason of his omission to be registered as proprietor under the Land Transfer Acts, 1875 and 1897, until brought into operation by virtue of the Land Registration Act, 1925.

8. Any legal estate acquired by virtue of this Part of this Schedule shall be held upon the trusts and subject to the powers, provisions, rents, covenants, conditions, rights of redemption (as respects terms of years absolute) and other rights, burdens and obligations, if any, upon or subject to which the estate acquired ought to be held.

9. No stamp duty shall become payable by reason only of any vesting surrender or release effected by this Schedule.

PART III.

PROVISIONS AS TO LEGAL ESTATE VESTED IN INFANT.

1. Where immediately before the commencement of this Act a legal estate in land is vested in one or more infants beneficially, or where immediately after the commencement of this Act a legal estate in land would by virtue of this Act have become vested in one or more infants beneficially if he or they had been of full age, the legal estate shall vest in the manner provided by the Settled Land Act, 1925.

2. Where immediately before the commencement of this Act a legal estate in land is vested in an infant jointly with one or more other persons of full age beneficially, the legal estate shall by virtue of this Act vest in that other person or those other persons on the statutory trusts, but not so as to sever any joint tenancy in the net proceeds of sale or in the rents and profits until sale:

Provided that, if by virtue of this paragraph the legal estate becomes vested in one person as trustee, then, if no other person is able and willing to do so, the parents or parent testamentary or other guardian of the infant, if respectively able and willing to act, (in the order named) may, and at the request of any person interested shall (subject to the costs being provided for) by writing appoint an additional trustee and thereupon by virtue of this Act the legal estate shall vest in the additional trustee and existing trustee as joint tenants.

3. Where, immediately before the commencement of this Act, a legal estate in land is vested solely in an infant as a personal representative, or a trustee of a settlement, or on trust for sale or on any other trust, or by way of mortgage, or where

immediately after the commencement of this Act a legal estate in land would by virtue of any provision of this Act or otherwise have been so vested if the infant were of full age, the legal estate and the mortgage debt (if any) and interest thereon shall, by virtue of this Act, vest in the Public Trustee, pending the appointment of trustees as hereinafter provided—

(*a*) as to the land, upon the trusts, and subject to the equities affecting the same (but in the case of a mortgage estate for a term of years absolute in accordance with this Act); and

(*b*) as to the mortgage debt and interest, upon such trusts as may be requisite for giving effect to the rights (if any) of the infant or other persons beneficially interested therein :

Provided that—

(i) The Public Trustee shall not be entitled to act in the trust, or charge any fee, or be liable in any manner, unless and until requested in writing to act by or on behalf of the persons interested in the land or the income thereof, or in the mortgage debt or interest thereon (as the case may be), which request may be made on behalf of the infant by his parents or parent, or testamentary or other guardian (in the order named), and those persons may, in the order aforesaid (if no other person is able and willing to do so) appoint new trustees in the place of the Public Trustee, and thereupon by virtue of this Act the land or term and mortgage money shall vest in the trustees so appointed upon the trusts and subject to the equities aforesaid : Provided that the Public Trustee may, before he accepts the trust, but subject to the payment of his costs, convey to a person of full age who becomes entitled;

(ii) After the Public Trustee has been so requested to act, and has accepted the trust, no trustee shall (except by an order of the court) be appointed in his place without his consent;

(iii) Any person interested in the land or the income thereof, or in the mortgage debt or in the interest thereon (as the case may be), may, at any time during the minority, apply to the court for the appointment of trustees of the trust, and the court may make such order as it thinks fit, and if thereby new trustees are appointed the legal estate (but in the case of a mortgage estate only for a term of years absolute as aforesaid) and the mortgage debt (if any) and interest shall, by virtue of this Act, vest in the trustees as joint tenants upon the trusts and subject to the equities aforesaid;

1ST SCH. —*cont.*

(iv) Neither a purchaser of the land nor a transferee for money or money's worth of the mortgage shall be concerned in any way with the trusts affecting the legal estate or the mortgage debt and interest thereon;

(v) The vesting in the Public Trustee of a legal estate or a mortgage debt by virtue of this Part of this Schedule shall not affect any directions previously given as to the payment of income or of interest on any mortgage money, but such instructions may, until he accepts the trust, continue to be acted on as if no such vesting had been effected.

4. Where, immediately before the commencement of this Act, a legal estate in land is vested in two or more persons jointly as personal representatives, trustees, or mortgagees, and anyone of them is an infant, or where immediately after the commencement of this Act a legal estate in land would, by virtue of this Act, or otherwise have been so vested if the infant were of full age, the legal estate in the land with the mortgage debt (if any) and the interest thereon shall, by virtue of this Act, vest in the other person or persons of full age—

(*a*) as to the legal estate, upon the trusts and subject to the equities affecting the same (but in the case of a mortgage estate only for a term of years absolute as aforesaid); and

(*b*) as to the mortgage debt and interest, upon such trusts as may be requisite for giving effect to the rights (if any) of the infant or other persons beneficially interested therein;

but neither a purchaser of the land nor a transferee for money or money's worth of the mortgage shall be concerned in any way with the trusts affecting the legal estate or the mortgage debt and interest thereon:

Provided that, if, by virtue of this paragraph, the legal estate and mortgage debt, if any, become vested in a sole trustee, then, if no other person is able and willing to do so, the parents or parent, testamentary or other guardian of the infant (in the order named) may, and at the request of any person interested shall, (subject to the costs being provided for) by writing appoint a new trustee in place of the infant, and thereupon by virtue of this Act the legal estate and mortgage money shall vest in the new and continuing trustees upon the trusts and subject to the equities aforesaid.

5. This Part of this Schedule does not affect the estate or powers of an administrator durante minore ætate, nor, where there is a tenant for life or statutory owner of settled land, operate to vest the legal estate therein in the Public Trustee.

PART IV.

PROVISIONS SUBJECTING LAND HELD IN UNDIVIDED SHARES TO A TRUST FOR SALE.

1. Where, immediately before the commencement of this Act, land is held at law or in equity in undivided shares vested in possession, the following provisions shall have effect :—

(1) If the entirety of the land is vested in trustees or personal representatives (whether subject or not to incumbrances affecting the entirety or an undivided share) in trust for persons entitled in undivided shares, then—

(*a*) if the land is subject to incumbrances affecting undivided shares or to incumbrances affecting the entirety which under this Act or otherwise are not secured by legal terms of years absolute, the entirety of the land shall vest free from such incumbrances in such trustees or personal representatives and be held by them upon the statutory trusts; and

(*b*) in any other case, the land shall be held by such trustees or personal representatives upon the statutory trusts;

subject in the case of personal representatives, to their rights and powers for the purposes of administration.

(2) If the entirety of the land (not being settled land) is vested absolutely and beneficially in not more than four persons of full age entitled thereto in undivided shares free from incumbrances affecting undivided shares, but subject or not to incumbrances affecting the entirety, it shall, by virtue of this Act, vest in them as joint tenants upon the statutory trusts.

(3) If the entirety of the land is settled land (whether subject or not to incumbrances affecting the entirety or an undivided share) held under one and the same settlement, it shall, by virtue of this Act, vest, free from incumbrances affecting undivided shares, and from incumbrances affecting the entirety, which under this Act or otherwise are not secured by a legal term of years absolute, in the trustees (if any) of the settlement as joint tenants upon the statutory trusts.

Provided that if there are no such trustees, then—

(i) pending their appointment, the land shall, by virtue of this Act, vest (free as aforesaid) in the Public Trustee upon the statutory trusts;

(ii) the Public Trustee shall not be entitled to act in the trust, or charge any fee, or be liable in any manner, unless and until requested in writing to

1ST SCH. —*cont.*

act by or on behalf of persons interested in more than an undivided half of the land or the income thereof;

(iii) after the Public Trustee has been so requested to act, and has accepted the trust, no trustee shall (except by an order of the court) be appointed in the place of the Public Trustee without his consent;

(iv) if, before the Public Trustee has accepted the trust, trustees of the settlement are appointed, the land shall, by virtue of this Act, vest (free as aforesaid) in them as joint tenants upon the statutory trusts;

(v) if, before the Public Trustee has accepted the trust, the persons having power to appoint new trustees are unable or unwilling to make an appointment, or if the tenant for life having power to apply to the court for the appointment of trustees of the settlement neglects to make the application for at least three months after being requested by any person interested in writing so to do, or if the tenants for life of the undivided shares are unable to agree, any person interested under the settlement may apply to the court for the appointment of such trustees.

(4) In any case to which the foregoing provisions of this Part of this Schedule do not apply, the entirety of the land shall vest (free as aforesaid) in the Public Trustee upon the statutory trusts:

Provided that—

(i) The Public Trustee shall not be entitled to act in the trust, or charge any fee, or be liable in any manner, unless and until requested in writing to act by or on behalf of the persons interested in more than an undivided half of the land or the income thereof;

(ii) After the Public Trustee had been so requested to act, and has accepted the trust, no trustee shall (except by an order of the court) be appointed in the place of the Public Trustee without his consent;

(iii) Subject as aforesaid, any persons interested in more than an undivided half of the land or the income thereof may appoint new trustees in the place of the Public Trustee with the consent of any incumbrancers of undivided shares (but so that a purchaser shall not be concerned to see whether any such consent has been given) and vest the land in the

persons so appointed (free as aforesaid) upon the statutory trusts; or such persons may (without such consent as aforesaid), at any time, whether or not the Public Trustee has accepted the trust, apply to the court for the appointment of trustees of the land, and the court may make such order as it thinks fit, and if thereby trustees of the land are appointed, the same shall by virtue of this Act, vest (free as aforesaid) in the trustees as joint tenants upon the statutory trusts;

(iv) If the persons interested in more than an undivided half of the land or the income thereof do not either request the Public Trustee to act, or (whether he refuses to act or has not been requested to act) apply to the court for the appointment of trustees in his place, within three months from the time when they have been requested in writing by any person interested so to do, then and in any such case, any person interested may apply to the court for the appointment of trustees in the place of the Public Trustee, and the court may make such order as it thinks fit, and if thereby trustees of the land are appointed the same shall by virtue of this Act, vest (free as aforesaid) in the trustees upon the statutory trusts.

(5) The vesting in the Public Trustee of land by virtue of this Part of this Schedule shall not affect any directions previously given as to the payment of income or of interest on any mortgage money, but such instructions may, until he accepts the trust, continue to be acted on as if no such vesting had been effected.

(6) The court or the Public Trustee may act on evidence given by affidavit or by statutory declaration as respects the undivided shares without investigating the title to the land.

(7) Where all the undivided shares in the land are vested in the same mortgagees for securing the same mortgage money and the rights of redemption affecting the land are the same as might have been subsisting if the entirety had been mortgaged by an owner before the undivided shares were created, the land shall, by virtue of this Act, vest in the mortgagees as joint tenants for a legal term of years absolute (in accordance with this Act) subject to cesser on redemption by the trustees for sale in whom the right of redemption is vested by this Act, and for the purposes of this Part of this Schedule the mortgage shall be deemed an incumbrance affecting the entirety.

1ST SCH. —*cont.*

(8) This Part of this Schedule does not (except where otherwise expressly provided) prejudice incumbrancers whose incumbrances affect the entirety of the land at the commencement of this Act, but (if the nature of the incumbrance admits) the land shall vest in them for legal terms of years absolute in accordance with this Act but not so as to affect subsisting priorities.

(9) The trust for sale and powers of management vested in persons who hold the entirety of the land on trust for sale shall, save as hereinafter mentioned, not be exercisable without the consent of any incumbrancer, being of full age, affected whose incumbrance is divested by this Part of this Schedule, but a purchaser shall not be concerned to see or inquire whether any such consent has been given, nor, where the incumbrancer is not in possession, shall any such consent be required if, independently of this Part of this Schedule or any enactment replaced thereby the transaction would have been binding on him, had the same been effected by the mortgagor.

(10) This Part of this Schedule does not apply to land in respect of which a subsisting contract for sale (whether made under an order in a partition action or by or on behalf of all the tenants in common or coparceners) is in force at the commencement of this Act if the contract is completed in due course (in which case title may be made in like manner as if this Act, and any enactment thereby replaced, had not been passed), nor to the land in respect of which a partition action is pending at such commencement if an order for a partition or sale is subsequently made in such action.

(11) The repeal of the enactments relating to partition shall operate without prejudice to any proceedings thereunder commenced before the commencement of this Act, and to the jurisdiction of the court to make any orders in reference thereto, and subject to the following provisions, namely :—

(i) In any such proceedings, and at any stage thereof, any person or persons interested individually or collectively in more than one half of the land to which the proceedings relate, may apply to the court for an order staying such proceedings;

(ii) The court may upon such application make an order staying the proceedings as regards the whole or any part, not being an undivided share, of the land;

(iii) As from the date of such order the said enactments shall cease to apply to the land affected by the order and the provisions of this Part of this Schedule shall apply thereto;

1ST SCH. —*cont.*

(iv) The court may by such order appoint trustees of the land and the same shall by virtue of this Act vest (free as aforesaid) in the trustees as joint tenants upon the statutory trusts;

(v) The court may order that the costs of the proceedings and of the application shall be raised by the trustees, by legal mortgage of the land or any part thereof, and paid either wholly or partially into court or to the trustees;

(vi) The court may act on such evidence as appears to be sufficient, without investigating the title to the land.

(12) In this Part of this Schedule "incumbrance" does not include land tax, tithe rentcharge, or any similar charge on the land not created by an instrument.

2. Where undivided shares in land, created before the commencement of this Act, fall into possession after such commencement, and the land is not settled land when the shares fall into possession, the personal representatives (subject to their rights and powers for purposes of administration) or other estate owners in whom the entirety of the land is vested shall, by an assent or a conveyance, give effect to the foregoing provisions of this Part of this Schedule in like manner as if the shares had fallen into possession immediately before the commencement of this Act, and in the meantime the land shall be held on the statutory trusts.

3. This Part of this Schedule shall not save as hereinafter mentioned apply to party structures and open spaces within the meaning of the next succeeding Part of this Schedule.

PART V.

PROVISIONS AS TO PARTY STRUCTURES AND OPEN SPACES.

1. Where, immediately before the commencement of this Act, a party wall or other party structure is held in undivided shares, the ownership thereof shall be deemed to be severed vertically as between the respective owners, and the owner of each part shall have such rights to support and of user over the rest of the structure as may be requisite for conferring rights corresponding to those subsisting at the commencement of this Act.

2. Where, immediately before the commencement of this Act, an open space of land (with or without any building used in common for the purposes of any adjoining land) is held in undivided shares, in right whereof each owner has rights of access and user over the open space, the ownership thereof shall vest in the Public Trustee on the statutory trusts which shall be executed only with the leave of the court, and, subject

1ST SCH. —*cont.*

to any order of the court to the contrary, each person who would have been a tenant in common shall, until the open space is conveyed to a purchaser, have rights of access and user over the open space corresponding to those which would have subsisted if the tenancy in common had remained subsisting.

3. Any person interested may apply to the court for an order declaring the rights and interests under this Part of this Schedule, of the persons interested in any such party structure or open space, or generally may apply in relation to the provisions of this Part of this Schedule, and the court may make such order as it thinks fit.

PART VI.

CONVERSION OF TENANCIES BY ENTIRETIES INTO JOINT TENANCIES.

Every tenancy by entireties existing immediately before the commencement of this Act shall, but without prejudice to any beneficial interest, as from such commencement be converted into a joint tenancy.

PART VII.

CONVERSION OF EXISTING FREEHOLD MORTGAGES INTO MORTGAGES BY DEMISE.

1. All land, which immediately before the commencement of this Act, was vested in a first or only mortgagee for an estate in fee simple in possession, whether legal or equitable, shall, from and after the commencement of this Act, vest in the first or only mortgagee for a term of three thousand years from such commencement, without impeachment of waste, but subject to a provision for cesser corresponding to the right of redemption which, at such commencement, was subsisting with respect to the fee simple.

2. All land, which immediately before the commencement of this Act, was vested in a second or subsequent mortgagee for an estate in fee simple in possession, whether legal or equitable, shall, from and after the commencement of this Act, vest in the second or subsequent mortgagee for a term one day longer than the term vested in the first or other mortgagee whose security ranks immediately before that of such second or subsequent mortgagee, without impeachment of waste, but subject to the term or terms vested in such first or other prior mortgagee and subject to a provision for cesser corresponding to the right of redemption which, at such commencement, was subsisting with respect to the fee simple.

3. The estate in fee simple which, immediately before the commencement of this Act, was vested in any such mortgagee shall, from and after such commencement, vest in the mortgagor or tenant for life, statutory owner, trustee for sale, personal representative, or other person of full age who, if all money

owing on the security of the mortgage and all other mortgages or charges (if any) had been discharged at the commencement of this Act, would have been entitled to have the fee simple conveyed to him, but subject to any mortgage term created by this Part of this Schedule or otherwise and to the money secured by any such mortgage or charge.

4. If a sub-mortgage by conveyance of the fee simple is subsisting immediately before the commencement of this Act, the principal mortgagee shall take the principal term created by paragraphs 1 or 2 of this Part of this Schedule (as the case may require) and the sub-mortgagee shall take a derivative term less by one day than the term so created, without impeachment of waste, subject to a provision for cesser corresponding to the right of redemption subsisting under the sub-mortgage.

5. This Part of this Schedule applies to land enfranchised by statute as well as to land which was freehold before the commencement of this Act, and (save where expressly excepted) whether or not the land is registered under the Land Registration Act, 1925, or the mortgage is made by way of trust for sale or otherwise.

6. A mortgage affecting a legal estate made before the commencement of this Act which is not protected, either by a deposit of documents of title relating to the legal estate or by registration as a land charge, shall not, as against a purchaser in good faith without notice thereof, obtain any benefit by reason of being converted into a legal mortgage by this Schedule, but shall, in favour of such purchaser, be deemed to remain an equitable interest.

This paragraph does not apply to mortgages or charges registered or protected under the Land Registration Act, 1925, or to mortgages or charges registered in a local deeds register.

7. Nothing in this Part of this Schedule shall affect priorities or the right of any mortgagee to retain possession of documents, nor affect his title to or rights over any fixtures or chattels personal comprised in the mortgage.

8. This Part of this Schedule does not apply unless a right of redemption is subsisting immediately before the commencement of this Act.

Part VIII.

Conversion of existing Leasehold Mortgages into Mortgages by subdemise.

1. All leasehold land, which immediately before the commencement of this Act, was vested in a first or only mortgagee by way of assignment of a term of years absolute shall, from and after the commencement of this Act, vest in the first or only mortgagee for a term equal to the term assigned by the mortgage, less the last ten days thereof, but subject to a provision for

1ST SCH. —*cont.*

cesser corresponding to the right of redemption which at such commencement was subsisting with respect to the term assigned.

2. All leasehold land, which immediately before the commencement of this Act, was vested in a second or subsequent mortgagee by way of assignment of a term of years absolute (whether legal or equitable) shall, from and after the commencement of this Act, vest in the second or subsequent mortgagee for a term one day longer than the term vested in the first or other mortgagee whose security ranks immediately before that of such second or subsequent mortgagee if the length of the last-mentioned term permits, and in any case for a term less by one day at least than the term assigned by the mortgage, but subject to the term or terms vested in such first or other prior mortgagee, and subject to a provision for cesser corresponding to the right of redemption which, at the commencement of this Act, was subsisting with respect to the term assigned by the mortgage.

3. The term of years absolute which was assigned by any such mortgage shall, from and after the commencement of this Act, vest in the mortgagor or tenant for life, statutory owner, trustee for sale, personal representative, or other person of full age who, if all the money owing on the security of the mortgage and all other mortgages or charges, if any, had been discharged at the commencement of this Act, would have been entitled to have the term assigned or surrendered to him, but subject to any derivative mortgage term created by this Part of this Schedule or otherwise and to the money secured by any such mortgage or charge.

4. If a sub-mortgage by assignment of a term is subsisting immediately before the commencement of this Act, the principal mortgagee shall take the principal derivative term created by paragraphs 1 or 2 of this Part of this Schedule or the derivative term created by his mortgage (as the case may require), and the sub-mortgagee shall take a derivative term less by one day than the term so vested in the principal mortgagee, subject to a provision for cesser corresponding to the right of redemption subsisting under the sub-mortgage.

5. A mortgage affecting a legal estate made before the commencement of this Act which is not protected, either by a deposit of documents of title relating to the legal estate or by registration as a land charge shall not, as against a purchaser in good faith without notice thereof, obtain any benefit by reason of being converted into a legal mortgage by this Schedule, but shall, in favour of such purchaser, be deemed to remain an equitable interest.

This paragraph does not apply to mortgages or charges registered or protected under the Land Registration Act, 1925, or to mortgages or charges registered in a local deeds register.

6. This Part of this Schedule applies to perpetually renewable leaseholds, and to leaseholds for lives, which are by statute

converted into long terms, with the following variations, namely :— 1ST SCH. —*cont.*

(*a*) The term to be taken by a first or only mortgagee shall be ten days less than the term created by such statute :

(*b*) The term to be taken by a second or subsequent mortgagee shall be one day longer than the term vested in the first or other mortgagee whose security ranks immediately before that of the second or subsequent mortgagee, if the length of the last-mentioned term permits, and in any case for a term less by one day at least than the term created by such statute :

(*c*) The term created by such statute shall, from and after the commencement of this Act, vest in the mortgagor or tenant for life, statutory owner, trustee for sale, personal representative, or other person of full age, who if all the money owing on the security of the mortgage and all other mortgages or charges, if any, had been discharged at the commencement of this Act, would have been entitled to have the term assigned or surrendered to him, but subject to any derivative mortgage term created by this Part of this Schedule or otherwise and to the money secured by any such mortgage or charge.

7. This Part of this Schedule applies (save where expressly excepted) whether or not the leasehold land is registered under the Land Registration Act, 1925, or the mortgage is made by way of trust for sale or otherwise.

8. Nothing in this Part of this Schedule shall affect priorities or the right of any mortgagee to retain possession of documents, nor affect his title to or rights over any fixtures or chattels personal comprised in the mortgage, but this Part of this Schedule does not apply unless a right of redemption is subsisting at the commencement of this Act.

SECOND SCHEDULE.

Sections 76 and 77.

IMPLIED COVENANTS.

PART I.

COVENANT IMPLIED IN A CONVEYANCE FOR VALUABLE CONSIDERATION, OTHER THAN A MORTGAGE, BY A PERSON WHO CONVEYS AND IS EXPRESSED TO CONVEY AS BENEFICIAL OWNER.

That, notwithstanding anything by the person who so conveys or any one through whom he derives title otherwise than by purchase for value, made, done, executed, or omitted,

2ND SCH. —*cont.*

or knowingly suffered, the person who so conveys, has, with the concurrence of every other person, if any, conveying by his direction, full power to convey the subject-matter expressed to be conveyed, subject as, if so expressed, and in the manner in which, it is expressed to be conveyed, and that, notwithstanding anything as aforesaid, that subject-matter shall remain to and be quietly entered upon, received, and held, occupied, enjoyed, and taken, by the person to whom the conveyance is expressed to be made, and any person deriving title under him, and the benefit thereof shall be received and taken accordingly, without any lawful nterruption or disturbance by the person who so conveys or any person conveying by his direction, or rightfully claiming or to claim by, through, under, or in trust for the person who so conveys, or any person conveying by his direction, or by, through, or under any one (not being a person claiming in respect of an estate or interest subject whereto the conveyance is expressly made), through whom the person who so conveys derives title, otherwise than by purchase for value:

And that, freed and discharged from, or otherwise by the person who so conveys sufficiently indemnified against, all such estates, incumbrances, claims, and demands, other than those subject to which the conveyance is expressly made, as, either before or after the date of the conveyance, have been or shall be made, occasioned, or suffered by that person or by any person conveying by his direction, or by any person rightfully claiming by, through, under, or in trust for the person who so conveys, or by, through, or under any person conveying by his direction, by, through, or under any one through whom the person who so conveys derives title, otherwise than by purchase for value:

And further, that the person who so conveys, and any person conveying by his direction, and every other person having or rightfully claiming any estate or interest in the subject-matter of conveyance, other than an estate or interest subject whereto the conveyance is expressly made, by, through, under, or in trust for the person who so conveys, or by, through, or under any person conveying by his direction, or by, through, or under any one through whom the person who so conveys derives title, otherwise than by purchase for value, will, from time to time and at all times after the date of the conveyance, on the request and at the cost of any person to whom the conveyance is expressed to be made, or of any person deriving title under him, execute and do all such lawful assurances and things for further or more perfectly assuring the subject-matter of the conveyance to the person to whom the conveyance is made, and to those deriving title under him, subject as, if so expressed, and in the manner in which the conveyance is expressed to be made, as by him or them or any of them shall be reasonably required.

In the above covenant a purchase for value shall not be deemed to include a conveyance in consideration of marriage.

PART II.

FURTHER COVENANT IMPLIED IN A CONVEYANCE OF LEASEHOLD PROPERTY FOR VALUABLE CONSIDERATION, OTHER THAN A MORTGAGE, BY A PERSON WHO CONVEYS AND IS EXPRESSED TO CONVEY AS BENEFICIAL OWNER.

That, notwithstanding anything by the person who so conveys, or any one through whom he derives title, otherwise than by purchase for value, made, done, executed, or omitted, or knowingly suffered, the lease or grant creating the term or estate for which the land is conveyed is, at the time of conveyance, a good, valid, and effectual lease or grant of the property conveyed, and is in full force, unforfeited, unsurrendered, and has in nowise become void or voidable, and that, notwithstanding anything as aforesaid, all the rents reserved by, and all the covenants, conditions, and agreements contained in, the lease or grant, and on the part of the lessee or grantee and the persons deriving title under him to be paid, observed, and performed, have been paid, observed, and performed up to the time of conveyance.

In the above covenant a purchase for value shall not be deemed to include a conveyance in consideration of marriage.

PART III.

COVENANT IMPLIED IN A CONVEYANCE BY WAY OF MORTGAGE BY A PERSON WHO CONVEYS AND IS EXPRESSED TO CONVEY AS BENEFICIAL OWNER.

That the person who so conveys, has, with the concurrence of every other person, if any, conveying by his direction, full power to convey the subject-matter expressed to be conveyed by him, subject as, if so expressed, and in the manner in which it is expressed to be conveyed:

And also that, if default is made in payment of the money intended to be secured by the conveyance, or any interest thereon, or any part of that money or interest, contrary to any provision in the conveyance, it shall be lawful for the person to whom the conveyance is expressed to be made, and the persons deriving title under him, to enter into and upon, or receive, and thenceforth quietly hold, occupy, and enjoy or take and have, the subject-matter expressed to be conveyed, or any part thereof, without any lawful interruption or disturbance by the person who so conveys, or any person conveying by his direction, or any other person (not being a person claiming in respect of an estate or interest subject whereto the conveyance is expressly made):

And that, freed and discharged from, or otherwise by the person who so conveys sufficiently indemnified against, all

2ND SCH. —*cont.*

estates, incumbrances, claims, and demands whatever, other than those subject whereto the conveyance is expressly made:

And further, that the person who so conveys and every person conveying by his direction, and every person deriving title under any of them, and every other person having or rightfully claiming any estate or interest in the subject-matter of conveyance, or any part thereof, other than an estate or interest subject whereto the conveyance is expressly made, will from time to time and at all times, on the request of any person to whom the conveyance is expressed to be made, or of any person deriving title under him, but, as long as any right of redemption exists under the conveyance, at the cost of the person so conveying, or of those deriving title under him, and afterwards at the cost of the person making the request, execute and do all such lawful assurances and things for further or more perfectly assuring the subject-matter of conveyance and every part thereof to the person to whom the conveyance is made, and to those deriving title under him, subject as, if so expressed, and in the manner in which the conveyance is expressed to be made, as by him or them or any of them shall be reasonably required.

The above covenant in the case of a charge shall have effect as if for references to "conveys," "conveyed" and "conveyance" there were substituted respectively references to "charges," "charged" and "charge."

PART IV.

COVENANT IMPLIED IN A CONVEYANCE BY WAY OF MORTGAGE OF FREEHOLD PROPERTY SUBJECT TO A RENT OR OF LEASEHOLD PROPERTY BY A PERSON WHO CONVEYS AND IS EXPRESSED TO CONVEY AS BENEFICIAL OWNER.

That the lease or grant creating the term or estate for which the land is held is, at the time of conveyance, a good, valid, and effectual lease or grant of the land conveyed and is in full force, unforfeited, and unsurrendered and has in nowise become void or voidable, and that all the rents reserved by, and all the covenants, conditions, and agreements contained in, the lease or grant, and on the part of the lessee or grantee and the persons deriving title under him to be paid, observed, and performed, have been paid, observed, and performed up to the time of conveyance:

And also that the person so conveying, or the persons deriving title under him, will at all times, as long as any money remains owing on the security of the conveyance, pay, observe, and perform, or cause to be paid, observed, and performed all the rents reserved by, and all the covenants, conditions, and agreements contained in, the lease or grant, and on the part of the lessee or grantee and the persons deriving title under him to be paid, observed, and performed, and will keep the person to whom the conveyance is made, and those deriving title under him, indemnified against all actions, proceedings, costs, charges,

2ND SCH. —*cont.*

damages, claims and demands, if any, to be incurred or sustained by him or them by reason of the non-payment of such rent or the non-observance or non-performance of such covenants, conditions, and agreements, or any of them.

The above covenant in the case of a charge shall have effect as if for references to "conveys," "conveyed" and "conveyance" there were substituted respectively references to "charges," "charged" and "charge."

PART V.

COVENANT IMPLIED IN A CONVEYANCE BY WAY OF SETTLEMENT, BY A PERSON WHO CONVEYS AND IS EXPRESSED TO CONVEY AS SETTLOR.

That the person so conveying, and every person deriving title under him by deed or act or operation of law in his lifetime subsequent to that conveyance, or by testamentary disposition or devolution in law, on his death, will, from time to time, and at all times, after the date of that conveyance, at the request and cost of any person deriving title thereunder, execute and do all such lawful assurances and things for further or more perfectly assuring the subject-matter of the conveyance to the persons to whom the conveyance is made and those deriving title under them, as by them or any of them shall be reasonably required, subject as, if so expressed, and in the manner in which the conveyance is expressed to be made.

PART VI.

COVENANT IMPLIED IN ANY CONVEYANCE, BY EVERY PERSON WHO CONVEYS AND IS EXPRESSED TO CONVEY AS TRUSTEE OR MORTGAGEE, OR AS PERSONAL REPRESENTATIVE OF A DECEASED PERSON, OR AS COMMITTEE OF A LUNATIC OR AS A RECEIVER OF A DEFECTIVE OR UNDER AN ORDER OF THE COURT.

That the person so conveying has not executed or done, or knowingly suffered, or been party or privy to, any deed or thing, whereby or by means whereof the subject-matter of the conveyance, or any part thereof, is or may be impeached, charged, affected, or incumbered in title, estate, or otherwise, or whereby or by means whereof the person who so conveys is in anywise hindered from conveying the subject-matter of the conveyance, or any part thereof, in the manner in which it is expressed to be conveyed.

The foregoing covenant may be implied in an assent in like manner as in a conveyance by deed.

PART VII.

COVENANT IMPLIED IN A CONVEYANCE FOR VALUABLE CONSIDERATION, OTHER THAN A MORTGAGE, OF THE ENTIRETY OF LAND AFFECTED BY A RENTCHARGE.

That the grantees or the persons deriving title under them will at all times, from the date of the conveyance or other date

2ND SCH. —*cont.*

therein stated, duly pay the said rentcharge and observe and perform all the covenants, agreements and conditions contained in the deed or other document creating the rentcharge, and thenceforth on the part of the owner of the land to be observed and performed:

And also will at all times, from the date aforesaid, save harmless and keep indemnified the conveying parties and their respective estates and effects, from and against all proceedings, costs, claims and expenses on account of any omission to pay the said rentcharge or any part thereof, or any breach of any of the said covenants, agreements and conditions.

PART VIII.

COVENANTS IMPLIED IN A CONVEYANCE FOR VALUABLE CONSIDERATION, OTHER THAN A MORTGAGE, OF PART OF LAND AFFECTED BY A RENTCHARGE, SUBJECT TO A PART (NOT LEGALLY APPORTIONED) OF THAT RENTCHARGE.

(i) That the grantees, or the persons deriving title under them, will at all times, from the date of the conveyance or other date therein stated, pay the apportioned rent and observe and perform all the covenants (other than the covenant to pay the entire rent) and conditions contained in the deed or other document creating the rentcharge, so far as the same relate to the land conveyed:

And also will at all times, from the date aforesaid, save harmless and keep indemnified the conveying parties and their respective estates and effects, from and against all proceedings, costs, claims and expenses on account of any omission to pay the said apportioned rent, or any breach of any of the said covenants and conditions, so far as the same relate as aforesaid.

(ii) That the conveying parties, or the persons deriving title under them, will at all times, from the date of the conveyance or other date therein stated, pay the balance of the rentcharge (after deducting the apportioned rent aforesaid, and any other rents similarly apportioned in respect of land not retained), and observe and perform all the covenants, other than the covenant to pay the entire rent, and conditions contained in the deed or other document creating the rentcharge, so far as the same relate to the land not included in the conveyance and remaining vested in the covenantors:

And also will at all times, from the date aforesaid, save harmless and keep indemnified the grantees and their estates and effects, from and against all proceedings, costs, claims and expenses on account of any omission to pay the aforesaid balance of the rentcharge, or any breach of any of the said covenants and conditions so far as they relate as aforesaid.

Part IX.

Covenant in a Conveyance for valuable Consideration, other than a Mortgage, of the Entirety of the Land comprised in a Lease for the Residue of the Term or Interest created by the Lease.

That the assignees, or the persons deriving title under them, will at all times, from the date of the conveyance or other date therein stated, duly pay all rent becoming due under the lease creating the term or interest for which the land is conveyed, and observe and perform all the covenants, agreements and conditions therein contained and thenceforth on the part of the lessees to be observed and performed:

And also will at all times, from the date aforesaid, save harmless and keep indemnified the conveying parties and their estates and effects, from and against all proceedings, costs, claims and expenses on account of any omission to pay the said rent or any breach of any of the said covenants, agreements and conditions.

Part X.

Covenants implied in a Conveyance for Valuable Consideration, other than a Mortgage, of Part of the Land comprised in a Lease, for the Residue of the Term or Interest created by the Lease, subject to a Part (not legally apportioned) of that Rent.

(i) That the assignees, or the persons deriving title under them, will at all times, from the date of the conveyance or other date therein stated, pay the apportioned rent and observe and perform all the covenants, other than the covenant to pay the entire rent, agreements and conditions contained in the lease creating the term or interest for which the land is conveyed, and thenceforth on the part of the lessees to be observed and performed, so far as the same relate to the land conveyed:

And also will at all times from the date aforesaid save harmless and keep indemnified, the conveying parties and their respective estates and effects, from and against all proceedings, costs, claims and expenses on account of any omission to pay the said apportioned rent or any breach of any of the said covenants, agreements and conditions so far as the same relate as aforesaid.

(ii) That the conveying parties, or the persons deriving title under them, will at all times, from the date of the conveyance, or other date therein stated, pay the balance of the rent (after deducting the apportioned rent aforesaid and any other rents similarly apportioned in respect of land not retained) and observe and perform all the covenants, other than the covenant to pay the entire rent, agreements and conditions contained in the lease and on the part of the lessees to be observed and performed so far as the same relate to the land demised (other than the land

2ND SCH. —*cont.*

comprised in the conveyance) and remaining vested in the covenantors:

And also will at all times, from the date aforesaid, save harmless and keep indemnified, the assignees and their estates and effects, from and against all proceedings, costs, claims and expenses on account of any omission to pay the aforesaid balance of the rent or any breach of any of the said covenants, agreements and conditions so far as they relate as aforesaid.

Sections 114 and 115.

THIRD SCHEDULE.

FORMS OF TRANSFER AND DISCHARGE OF MORTGAGES.

FORM NO. 1.

FORM OF TRANSFER OF MORTGAGE.

This Transfer of Mortgage made the day of 19 , between *M.* of [&c.] of the one part and *T.* of [&c.] of the other part, supplemental to a Mortgage dated [&c.], and made between [&c.], and to a Further Charge dated [&c.], and made between [&c.] affecting &c. (*here state short particulars of the mortgaged property*).

WITNESSETH that in consideration of the sums of £ and £ (for interest) now paid by *T.* to *M.*, being the respective amounts of the mortgage money and interest owing in respect of the said mortgage and further charge (the receipt of which sums *M.* hereby acknowledges) *M.*, as mortgagee, hereby conveys and transfers to *T.* the benefit of the said mortgage and further charge.

In witness, &c.

FORM NO. 2.

FORM OF RECEIPT ON DISCHARGE OF A MORTGAGE.

I, *A.B.*, of [&c.] hereby acknowledge that I have this day of 19 , received the sum of £ representing the [aggregate] [balance remaining owing in respect of the] principal money secured by the within [above] written [annexed] mortgage [and by a further charge dated, &c., *or otherwise as required*] together with all interest and costs, the payment having been made by *C.D.* of [&c.] and *E.F.* of [&c.]

As witness, &c.

Note.—If the persons paying are not entitled to the equity of redemption state that they are paying the money out of a fund applicable to the discharge of the mortgage.

FOURTH SCHEDULE.

Section 117.

Forms relating to Statutory Charges or Mortgages of Freehold or Leasehold Land.

Form No. 1.

Statutory Charge by Way of Legal Mortgage.

This Legal Charge made by way of Statutory Mortgage the day of 19 , between *A.* of [&c.] of the one part and *M.* of [&c.] of the other part Witnesseth that in consideration of the sum of £ now paid to *A.* by *M.* of which sum *A.* hereby acknowledges the receipt *A.* As Mortgagor and As Beneficial Owner hereby charges by way of legal mortgage All That [&c.] with the payment to *M.* on the day of 19 , of the principal sum of £ as the mortgage money with interest thereon at the rate of per centum per annum.

In witness &c.

Note.—Variations in this and the subsequent forms in this Schedule to be made, if required, for leasehold land or for giving effect to special arrangements. *M.* will be in the same position as if the Charge had been effected by a demise of freeholds or a subdemise of leaseholds.

Form No. 2.

Section 118.

Statutory Transfer, Mortgagor not Joining.

This Transfer of Mortgage made by way of statutory transfer the day of 19 , between *M.* of [&c.] of the one part and *T.* [of &c.] of the other part supplemental to a legal charge made by way of statutory mortgage dated [&c.] and made [&c.] Witnesseth that in consideration of the sum of £ now paid to *M.* by *T.* (being the aggregate amount of £ mortgage money and £ interest due in respect of the said legal charge of which sum *M.* hereby acknowledges the receipt) *M.* as Mortgagee hereby conveys and transfers to *T.* the benefit of the said legal charge.

In witness, &c.

Note.—This and the next two forms also apply to a transfer of a statutory mortgage made before the commencement of this Act, which will then be referred to as a mortgage instead of a legal charge.

4TH SCH. —*cont.*

Section 118.

FORM NO. 3.

STATUTORY TRANSFER, A COVENANTOR JOINING.

This Transfer of Mortgage made by way of statutory transfer the day of 19 , between *A.* of [&c.] of the first part *B.* of [&c.] of the second part and *C.* of [&c.] of the third part Supplemental to a Legal Charge made by way of statutory mortgage dated [&c.] and made [&c.] Witnesseth that in consideration of the sum of £ now paid by *A.* to *C.* (being the mortgage money due in respect of the said Legal Charge no interest being now due or payable thereon of which sum *A.* hereby acknowledges the receipt) *A.* as Mortgagee with the concurrence of *B.* who joins herein as covenantor hereby conveys and transfers to *C.* the benefit of the said Legal Charge.

In witness, &c.

Sections 117 and 118.

FORM NO. 4.

STATUTORY TRANSFER AND MORTGAGE COMBINED.

This Transfer and Legal Charge is made by way of statutory transfer and mortgage the day of 19 , between *A.* of [&c.] of the first part *B.* of [&c.] of the second part and *C.* of [&c.] of the third part Supplemental to a Legal Charge made by way of statutory mortgage dated [&c.] and made [&c.] Whereas a principal sum of £ only remains due in respect of the said Legal Charge as the mortgage money and no interest is now due thereon And Whereas *B.* is seised in fee simple of the land comprised in the said Legal Charge subject to that Charge.

Now this Deed Witnesseth as follows :—

1. In consideration of the sum of £ now paid to *A.* by *C.* (the receipt and payment of which sum *A.* & *B.* hereby respectively acknowledge)* *A.* as mortgagee hereby conveys and transfers to *C.* the benefit of the said Legal Charge.

2. For the consideration aforesaid *B.*† as beneficial owner hereby charges by way of legal mortgage All the premises comprised in the said Legal Charge with the payment to *C.* on the day of 19 of‡ the sum of £ as the mortgage money with interest thereon at the rate of per centum per annum In Witness &c. [or in the case of a further advance after " acknowledge " *at* * *insert* " and of the further sum of £ now paid by *C.* to *B.* of which sum *B.* hereby acknowledges the receipt " *also at* † *before* " as beneficial owner " *insert* " as mortgagor and " *as well as where B. is not the original mortgagor. And after* " of " *at* ‡ *insert* " the sums of £ and £ making together "].

Note.—Variations to be made, as required, in case of the deed being by indorsement, or in respect of any other thing.

4th Sch. —*cont.*

Form No. 5.

Receipt on Discharge of Statutory Legal Charge or Mortgage.

Section 120.

I *A.B.* of [&c.] hereby acknowledge that I have this day of 19 received the sum of £ representing the [aggregate] [balance remaining owing in respect of the] mortgage money secured by the [annexed] within [above] written statutory legal charge [*or* statutory mortgage] [and by the further statutory charge dated &c. *or otherwise as required*] together with all interest and costs the payment having been made by *C.D.* of [&c.] and *E.F.* of [&c.]

As witness &c.

Note.—If the persons paying are not entitled to the equity of redemption state that they are paying the money out of a fund applicable to the discharge of the statutory legal charge or mortgage.

FIFTH SCHEDULE.

Section 206.

Forms of Instruments.

Form No. 1.

Charge by way of Legal Mortgage.

This Legal Charge is made [&c.] between *A.* of [&c.] of the one part and *B.* of [&c.] of the other part.

[*Recite the title of A. to the freeholds or leaseholds in the Schedule and agreement for the loan by B.*]

Now in consideration of the sum of pounds now paid by *B.* to *A.* (the receipt &c.) this Deed witnesseth as follows :—

1. *A.* hereby covenants with *B.* to pay [*Add the requisite covenant to pay principal and interest*].

2. *A.* as Beneficial Owner hereby charges by way of legal mortgage All and Singular the property mentioned in the Schedule hereto with the payment to *B.* of the principal money, interest, and other money hereby covenanted to be paid by *A.*

3. [*Add covenant to insure buildings and any other provisions desired.*]

In witness [&c.] [*Add Schedule*].

Note.—*B.* will be in the same position as if a mortgage had been effected by a demise of freeholds or a subdemise of leaseholds.

5TH SCH. —*cont.*

FORM NO. 2.

FURTHER CHARGE BY WAY OF LEGAL MORTGAGE.

This Further Charge made [&c.] between [&c.] [*same parties as foregoing legal charge*] Supplemental to a Legal Charge (hereinafter called the Principal Deed) dated [&c.] and made between the same parties as are parties hereto and in the same order for securing the sum of £ and interest at per centum per annum on [freehold] [leasehold] land at [&c.].

Witnesseth as follows :—

1. In consideration of the further sum of £ now paid to *A.* by *B.* [*add receipt and covenant to pay the further advance and interest.*].

2. For the consideration aforesaid *A.* as Beneficial Owner hereby charges by way of legal mortgage the premises comprised in the Principal Deed with the payment to *B.* of the principal money and interest hereinbefore covenanted to be paid as well as the principal money, interest, and other money secured by the Principal Deed.

In witness [&c.].

FORM NO. 3.

CONVEYANCE ON SALE, LEGAL CHARGEES OR MORTGAGEES CONCURRING.

This Conveyance is made [&c.] between *A.* of [&c.] (hereinafter called the Vendor) of the first part *B.* of [&c.] and *C.* of [&c.] (hereinafter called the Mortgagees) of the second part and *D.* of [&c.] (hereinafter called the Purchaser) of the third part [*Recite the Charge by way of legal mortgage, the state of the debt, the agreement for sale and for the mortgagees to concur.*]

Now in the consideration of the sum of £ paid by the Purchaser by the direction of the Vendor to the Mortgagees (*the receipt &c.*) and of the sum of £ paid by the Purchaser to the Vendor (*the receipt &c.*) this Deed witnesseth as follows :—

1. The Vendor As Beneficial Owner hereby conveys and the Mortgagees As Mortgagees hereby [surrender and] release unto the Purchaser All That &c.

To Hold unto the Purchaser [in fee simple] discharged from all claims under the recited Legal Charge [Mortgage and to the intent that the term subsisting thereunder shall as respects the premises conveyed merge and be extinguished.].

2. [*Add any necessary acknowledgments and undertakings with respect to documents not handed over which relate to the title and any other special provisions.*]

In witness &c.

5th Sch. —*cont.*

Form No. 4.

Conveyance on Sale by Legal Chargees or Mortgagees.

This Conveyance is made [&c.] between *A.* of [&c.] and *B.* of [&c.] (hereinafter called the Vendors) of the one part and *C.* of [&c.] (hereinafter called the Purchaser) of the other part [*Recite the Legal Charge or the Mortgage, with or without a deed converting the Mortgage into a legal charge and the agreement for sale*].

Now in consideration of the sum of £ paid by the Purchaser to the Vendors (the receipt &c.) this Deed witnesseth as follows :—

1. The Vendors As Mortgagees in exercise of the power for this purpose conferred on them by the Law of Property Act, 1925, and of all other powers hereby convey unto the Purchaser All Those &c.

To Hold unto the Purchaser [in fee simple] discharged from all right of redemption and claims under the recited Legal Charge [Mortgage].

2. [*Add any necessary acknowledgements as to documents retained and any other special provisions.*]

In witness &c.

Form No. 5.

Conveyance by Personal Representatives of a Fee Simple reserving thereout a Term of Years absolute for giving Legal Effect to a Mortgage.

This Conveyance is made [&c.] between *James Cook* of [&c.] and *Harry Cook* of [&c.] of the first part, *L.* of [&c.] and *M.* of [&c.] of the second part, and *Thomas Wilson* of [&c.] of the third part.

Whereas on the first day of October 1927 Letters of Administration to the real and personal estate of *Henry Wilson*, late of [&c.], who died [&c.], were granted by the principal probate registry to *James Cook* and *Harry Cook*.

And whereas *Henry Wilson* was at his death solely entitled to the hereditaments hereinafter conveyed for an estate in fee simple.

Now this Deed witnesseth that *James Cook* and *Harry Cook*, as Personal Representatives of the said *Henry Wilson* deceased, hereby convey unto the said *Thomas Wilson*

All that [&c.]

Reserving out of the premises nevertheless unto *L.* and *M.* a term of eight hundred years, without impeachment of waste, to commence from the date hereof but subject to cesser on redemption by *Thomas Wilson* under a Mortgage dated [&c.] and made between [&c.] on payment of the sum of five thousand

5TH SCH. —*cont.*

pounds, and interest thereon at the rate of five pounds per centum per annum.

To hold the premises subject to the said term unto *Thomas Wilson* [in fee simple].

In witness [&c.]

Note.—The reservation will be valid at law, though the deed may not be executed by *Thomas Wilson*.

FORM No. 6.

CONVEYANCE ON SALE RESERVING MINERALS AND RIGHT TO WORK AND A PERPETUAL RENTCHARGE.

This Conveyance made [&c.] between *A.* of [&c.] of the one part and *B.* of [&c.] of the other part.

Witnesseth that in consideration of the sum of pounds now paid by *B.* to *A.* (the receipt, &c.) and of the rentcharge hereinafter reserved *A.* as Beneficial Owner hereby conveys unto *B.*

All those [&c.] except and reserving unto *A.* in fee simple all mines and minerals Together with full power to work [&c.]

To hold (except and reserved as aforesaid) unto *B.* in fee simple reserving out of the premises to *A.* in fee simple a perpetual yearly rentcharge of pounds, to be for ever charged upon and issuing out of the premises hereby conveyed clear of all deductions (except landlord's property tax), and payable by equal half-yearly payments on [&c.], the first payment to be made on [&c.]

And *B.* hereby covenants with *A.*, and the persons deriving title under him to pay [&c.]

In witness [&c.]

Note.—The reservations will be valid at law even if the deed is not executed by *B.*

FORM No. 7.

DEED FOR CONFIRMING LEGAL ESTATES WHICH HAVE NOT BEEN VALIDLY CREATED.

To All to whom this Further Assurance shall come *A.B.* of &c. sends greeting this day of 19 .

[*Recite the invalid dealings, giving short particulars in schedules of the Conveyances, Grants and Leases which purport to transfer or create legal estates, that A.B. is entitled in fee simple or for a term of years absolute in the land affected and desires to confirm the dealings.*]

Now these presents witness and the said *A.B.* hereby declares that his legal estate in the premises affected to which he is entitled

as aforesaid shall go and devolve in such manner as may be requisite for legally confirming the interests capable of subsisting as legal estates expressed to have been transferred or created by the documents mentioned in the schedules hereto or any of those documents and any dealings with the interests so confirmed which would have been legal if those interests had in the first instance been validly transferred or created : 5th Sch. —*cont.*

Provided always that subject to such confirmation of interests and dealings nothing herein contained shall affect the legal estate of the said *A.B.* in the premises.

In witness, &c. [*Add Schedules.*]

Note.—This form takes the place of a conveyance to uses for confirming past transactions and is applicable to a term of years absolute as well as a fee simple.

Form No. 8.

Assent by Personal Representative in Favour of a Person absolutely entitled free from Incumbrances.

I, *A.B.*, of [&c.] as the personal representative of *X.Y.*, late of [&c.] deceased, do this day of 19 hereby, As Personal Representative, assent to the vesting in *C.D.* of [&c.] of [All that farm &c.] *or* [All the property described in the Schedule hereto] for all the estate or interest of the said *X.Y.* at the time of his death [*or*, for an estate in fee simple].

As witness, &c.

Note.—The expression "conveyance" includes an assent, but an assent will relate back to the death unless a contrary intention appears. An assent may be properly given though duties remain to be paid if the personal representative is satisfied in regard to the arrangements made for payment.

Form No. 9.

Assent by Personal Representatives in Favour of Trustees for Sale.

We, *A.B.*, of [&c.] and *C.D.*, of [&c.] as the Personal Representatives of *X.Y.*, late of [&c.] deceased do this day of 19 hereby :—

1. As Personal Representatives assent to the vesting in [ourselves *or*] *T.A.* of [&c.] and *T.B.* of [&c.] of All Those &c. To Hold unto [ourselves *or*] the said *T.A.* and *T.B.* in fee simple Upon trust to sell the same or any part thereof with full power to postpone the sale and to stand possessed of the net proceeds of sale and other money applicable as capital and the net rents

5TH SCH. —*cont.*

and profits until sale upon the trusts respectively declared concerning the same [*or* the proceeds of sale and the rents and profits of certain property at] by the Will dated [&c.] of [&c.] [*or* by the Settlement dated &c. *or otherwise as the case may require*].

2. And declare that *F.* of [&c.] and *M.* of [&c.] during their joint lives and the survivor of them during his or her life have or has power to appoint new trustees of this Assent [*or* " that the statutory power to appoint new trustees applies to this Assent " *or otherwise as the case requires to correspond with the power applicable to the Will or Settlement*].

As witness &c.

Section 206.

SIXTH SCHEDULE.

EPITOMES OF ABSTRACTS OF TITLE.

SPECIMEN No. 1.

OF THE TITLE OF JOHN WILLIAMS TO BLACKACRE.

WHERE THE TITLE COMMENCES BEFORE THE COMMENCEMENT OF THIS ACT.

The italics show how the abstract is to be framed and what documents are to be abstracted. After the commencement of this Act, the parts not in italics may be ignored.

10th June 1897. *Will of H. Jones, appointing Maria Jones and W. Jones executors and Settled Land Act trustees.*

Devises, Blackacre.

To the use that Maria Jones may receive a yearly rentcharge of five hundred pounds for her life, and, subject thereto,

To the use of W. Jones for life with remainder,

To the use of *X.* and *Y.*, for a term of one thousand years, and subject thereto,

To the use of the first and other sons of W. Jones in tail with remainders over.

Trusts of term of one thousand years declared for raising ten thousand pounds for portions for younger children of W. Jones, as he shall appoint, and in default equally.

Hotchpot Clause. Power to appoint new trustees.

4th June 1898. *Death of H. Jones.*

6TH SCH. —*cont.*

Will of H. Jones proved. 1st August 1898.

[*Note.*—After the execution of the Vesting Deed the will only takes effect in equity and can be withdrawn from the abstract when not required as a root of title.]

Conveyance by the executors to the uses of the Will. 20th August 1899.

Appointment of R. and S. to be Settled Land Act trustees of the will in place of Maria Jones and W. Jones who retire. 2nd September 1915.

The Settled Land and Law of Property Acts, 1925, come into operation. 1st January 1926.

[NOTE.—The legal estate in fee simple will vest in W. Jones in fee simple, but he cannot deal with it till the vesting deed is executed.]

Deed by the Settled Land Act trustees declaring the fee simple is vested in W. Jones on the trusts of the Will and stating that they are the trustees of the settlement. 20th January 1926.

Appointment by W. Jones of five thousand pounds, part of the ten thousand pounds, to his daughter, Ann Jones. 2nd February 1926.

Assignment by Ann Jones of her five thousand pounds, part of the ten thousand pounds raisable for portions, to trustees *F.* and *G.* on her marriage to J. Robinson. 3rd February 1926.

Will of W. Jones, appointing T. Brooks his executor. 4th February 1926.

Death of W. Jones leaving three children, Frederick Jones, his eldest son, and E. Jones and Ann Robinson. 6th March 1926.

Disentail by Frederick Jones in trust for himself in fee simple. 2nd April 1926.

Will of W. Jones proved by R. and S. in regard to the settled land. 3rd May 1926.

Mortgage by E. Jones of his one-half of the ten thousand pounds to *K.* 6th June 1926.

Death of Maria Jones, jointress. 1st December 1926.

Release by *F.* and *G.* on payment to them of the five thousand pounds of Ann Robinson. 2nd January 1927.

Release by E. Jones and *K.*, his mortgagee, of the five thousand pounds raisable for E. Jones. Same date.

Assent by R. and S., as personal representatives to Frederick Jones in fee, without nominating Settled Land Act trustees. 3rd January 1927.

[NOTE.—If the Assent had been made before the family charges had been cleared, the personal representatives would have nominated themselves as being the trustees of the settlement, and a discharge from them would have been required when the charges were cleared.]

6TH SCH. —*cont.*

6th February 1927. *Mortgage either by charge by way of legal mortgage or for a term of one thousand years by Frederick Jones to the Estate Trustees of the C. Assurance Society to secure five thousand pounds and interest.*

20th March 1927. Second mortgage either by charge by way of legal mortgage or for a term of two thousand years by Frederick Jones to *D.*, to secure three thousand pounds and interest.

1st June 1927. Third mortgage either by charge by way of legal mortgage or for a term of three thousand years by Frederick Jones to *E.*, to secure two thousand pounds and interest.

8th August 1927. Conveyance by Frederick Jones on his marriage (subject to above mortgages) to *M.* and *N.* upon trust for sale, the proceeds of sale being settled by a deed of even date.

12th November 1927. Death of *M.*

20th December 1927. Appointment of *F.* as trustee of the conveyance on trust for sale in the place of *M.*, and jointly with *N.*

10th June 1928. *Conveyance by the then Estate Trustees of the C. Assurance Society, under their power of sale as first mortgagees, to John Williams in fee.*

[NOTE.—The title being made under the power of sale of the Estate Trustees, the fee simple passes and not merely the mortgage term. They can if desired convey the fee in the names of *M.* and *N.* It is unnecessary to disclose the second and third mortgages or the conveyance on trust for sale. It would have been necessary to disclose them if title had been made by the trustees for sale, as the mortgages and the conveyance all dealt with legal estates. The right to vest the debt and mortgaged property in Estate Trustees by memorial enrolled under a Private Act is preserved.

No evidence of deaths, births, &c., is required. Probate of the will of H. Jones is conveyancing evidence of his death.]

12th January 1929. John Williams leaves Great Britain and Northern Ireland is believed to be alive but cannot be found.

10th August 1929. *Private Act passed authorising the X. Company to acquire Blackacre under compulsory powers.*

15th June 1930. *Statutory declaration as to facts known with reference to John Williams.*

16th June 1930. *Deed Poll by X. Company (who by their agent also execute in the name of John Williams) under section seventy-seven of the Lands Clauses Consolidation Act, 1845, vesting the land in themselves.*

[NOTE.—This is an example of an exercise of a power over a legal estate the operation of which is expressly preserved.]

SPECIMEN No. 2.

6TH SCH. —*cont.*

OF THE TITLE OF THE TRUSTEES OF FRANK SMITHERS TO GREENACRE.

RELATING TO UNDIVIDED SHARES.

Mortgage by James Smith of Greenacre to M. Coy., Ltd. in fee to secure 1,000*l. and interest.*	2nd January 1910.
Will of James Smith devising Greenacre to his ten children named therein in equal shares and appointing E. to be his executor.	4th February 1910.
Death of James Smith, leaving the ten children surviving.	1st March 1910.
Probate by E.	3rd April 1910.
Assent by E. to the devise to the ten children.	4th December 1910.
Mortgage by one of the sons of his tenth share.	5th January 1911.
Conveyance by one of the daughters on her marriage of a tenth share to trustees on trust for sale, the net proceeds to be held on the trusts of her settlement of even date.	15th April 1911.
Settlement by another of the sons of his tenth share and appointing Settled Land Act trustees.	20th May 1911.
Will of another daughter devising her tenth to her husband and appointing him executor.	8th June 1913.
Death of the testatrix.	20th June 1913.
Probate by her husband.	4th August 1913.
Death of another son intestate.	2nd May 1918.
Letters of administration granted to two of his brothers.	30th July 1918.
The Law of Property Act, 1925, comes into operation and vests Greenacre, subject only to the mortgage of 1910 affecting the entirety (which is converted into a mortgage for a term of three thousand years), in the Public Trustee, pending the appointment of new trustees, on trust for sale.	1st January 1926.
Order of the court (Chancery Division) made on the application of persons entitled to six tenths, appointing M. and N. to be trustees of the trust affecting Greenacre in place of the Public Trustee.	4th June 1926.
Conveyance on sale to Walter Robinson by M. and N., the M. Company, Limited, being paid off out of part of the purchase money, and joining to surrender the three thousand years term.	7th May 1927.

[NOTE.—The balance of the purchase money is available in the hands of the trustees to answer the claims of the mortgagee and other persons interested in undivided shares.]

6TH SCH. —*cont.*

4th June 1927. Will of Walter Robinson devising and bequeathing Greenacre and his residuary real and personal estate to *X.* and *Y.* upon trust for his son John Robinson for life with remainder upon trust for his first and other sons successively according to seniority in tail male with remainder upon trust for the same sons in tail general with remainder upon trust for all the daughters of John Robinson as tenants in common in tail with cross remainders in tail between them in equal shares. Appointment of *X.* and *Y.* to be executors and Settled Land Act trustees.

1st December 1927. Death of testator.

20th April 1928. *Probate by X. and Y.*

3rd May 1928. *Assent by X. and Y. vesting the settled land in John Robinson upon the trusts of the will of Walter Robinson, and stating that they are the trustees of the settlement.*

14th July 1928. Will of John Robinson appointing his daughters Mary Robinson and Jane Robinson his executors.

16th March 1930. Death of John Robinson without having had a son and leaving five daughters.

12th June 1930. *Probate by X. and Y. in regard to the settled land.*

25th July 1930. *Assent by X. and Y. to the vesting of the settled land in themselves on trust for sale, the net proceeds to be held on the trusts of the will of Walter Robinson.*

7th January 1931. *Conveyance on sale by X. and Y. of Greenacre to Frank Smithers in fee.*

8th January 1931. Equitable charge by Frank Smithers to James Montagu by way of indemnity and agreement to vest Greenacre in a trust corporation on trust for sale to raise the money when the amount is ascertained and for other purposes.

[NOTE.—A mere equitable charge not secured by deposit of documents can be overridden when the land is made subject to a trust for sale without joining the chargee.]

9th January 1932 *Lease by Frank Smithers of part of Greenacre to his wife for life at a rent.*

[NOTE.—A lease for life is made to take effect as a demise for a term of ninety years determinable by notice after the death of the lessee by his representatives or by the lessor.]

23rd June 1933. *Conveyance by Frank Smithers, of Greenacre, to a trust corporation on trust for sale subject to the lease.* The net proceeds to be held on the trusts of a deed of even date, under which effect is given to the Agreement of 1931.

Specimen No. 3.

6th Sch. —*cont.*

Of the Title of R. Horne to Whiteacre.

Where the Title commences after the Commencement of this Act.

Settlement by John Wilson, being a deed declaring that Whiteacre is vested in himself in fee upon the trusts of a deed of even date. 4th July 1926.

Appointment of R. and S. to be trustees for the purposes of the Settled Land Act, 1925.

Provisions extending the powers conferred by the Settled Land Act, so far as they relate to dealings with land, and giving power for John Wilson during his life to appoint new trustees.

Trust Instrument. Same date.

Trusts declared for John Wilson for life, with remainder.

Upon trust that Elizabeth Wilson, if she survives him shall have a rentcharge of 200*l.* during the residue of her life, and subject thereto.

Upon trust for *R.* and *S.* for a term of five hundred years to raise five thousand pounds portions for younger children of John Wilson, with remainder.

Upon trust for Henry Wilson for life, with remainder.

Upon trust for *H.* and *K.* for a term of one thousand years to raise five thousand pounds portions for younger children of Henry Wilson, with remainder.

Upon trust for the first and other sons of Henry Wilson successively in tail, with further remainders over. Appointment of *R.* and *S.* to be Settled Land Act trustees. Extension of Settled Land Act powers by reference to the Vesting Deed of even date or otherwise. Power for tenant for life of full age to appoint new trustees.

Appointment of new trustee of the Trust Instrument and of the five hundred years' term. 4th September 1926.

Recites that *S.* is incapable of acting. Appointment by John Wilson of *P.* to be trustee of the term of five hundred years and for the purposes of the Trust Deed in the place of *S.* and jointly with *R.* Declaration (express or implied) vesting the equitable term of five hundred years in *R.* and *P.*

Deed stating that R. and P. are the trustees of the settlement. Memorandum of the deed endorsed on the Vesting Deed. Same date.

Will of John Wilson appointing Isaac James and Joseph James executors. 7th January 1927.

Death of John Wilson, leaving younger children and his widow. 3rd September 1927.

6TH SCH. —*cont.*

	Will of John Wilson proved by R. and P. in regard to the settled land.
4th April 1928.	Assignment by *R.* and *P.* to *B.* of term of five hundred years by way of mortgage for securing five thousand pounds and interest.
1st October 1928.	[NOTE.—As money has been raised on the term the mortgagee could call on the executors to create a legal term for securing it in priority to the settlement.]
2nd December 1928.	*Assent by R. and P., as personal representatives, to the vesting of the settled land in Henry Wilson in fee upon the trusts of the Trust Deed.*
	Statement that R. and P. are the trustees of the settlement. Power for Henry Wilson during his life to appoint new trustees.
	The same provisions for extending powers conferred by the Settled Land Act as are contained in the Vesting Deed.
	[NOTE.—These may be inserted either expressly, if short, or by reference to the former Vesting Deed, if long.]
2nd June 1929.	Appointment of James Cook and Harry Cook to be trustees of the Trust Deed.
2nd June 1929.	*Deed stating that they are the trustees of the settlement. Endorsement of notice on the Vesting Deed.*
4th November 1929.	Transfer of the mortgage for five thousand pounds by *B.* to *C.*
10th July 1930.	Death of Henry Wilson, leaving Thomas Wilson, his eldest son, and two younger children.
1st October 1930.	*Letters of Administration to the settled land of Henry Wilson granted to James Cook and Harry Cook.*
3rd November 1930.	Disentail by Thomas Wilson.
4th November 1930.	Release by *C.* on payment off of his mortgage debt of five thousand pounds and surrender of the equitable term of five hundred years.
10th November 1930.	Death of Elizabeth Wilson.
	[NOTE.—Though her jointure took effect in equity only she has power to create a term of years absolute for raising arrears of the jointure, and the estate owner would be bound to give legal effect to a mortgage of the term.]
20th November 1930.	Release by two younger children of Henry Wilson of their portions.
Same date.	Demise by Thomas Wilson to *L.* and *M.* for an equitable term of eight hundred years, subject to cesser on payment of five thousand pounds and interest.
Same date.	*Demise by James Cook and Harry Cook to L. and M. for the term of eight hundred years, subject to cesser on redemption or charge by way of legal mortgage.*

Assent by them to the vesting of the settled land, subject to the term or legal charge, in Thomas Wilson in fee, without nominating Settled Land Act trustees.	Same date. 20th November 1930.
Conveyance by Thomas Wilson and L. and M. to R. Horne in fee.	10th March 1931.

SPECIMEN No. 4.

OF THE TITLE OF THE ADMINISTRATORS OF M. CURTIS TO RICH AND MIDDLE FARMS.

RELATING TO INFANTS.

Will of James Wilcox devising Rich Farm and Middle Farm to the use of his elder son John Wilcox (an infant) for his life with remainders over for the issue of John Wilcox which failed with remainder to the use of his younger son Gilbert Wilcox (an infant) for his life with remainders over. Appointment of *X.* and *Y.* to be executors and Settled Land Act trustees.	2nd January 1922.
Death of testator, leaving his two sons, giving dates of their births.	4th February 1922.
Probate by X. and Y.	12th May 1922.
Assent to the devise, John Wilcox being still an infant.	15th December 1922.
The Settled Land Act, 1925, and The Law of Property Act, 1925, come into force and vest the settled land in *X.* and *Y.* as Settled Land Act trustees by reason of John Wilcox being an infant.	1st January 1926.
Instrument declaring that the settled land is vested in X and Y.	4th January 1926.
Death of John Wilcox a bachelor and an infant.	3rd June 1926.
Conveyance on sale of Rich Farm by X. and Y. to M. Curtis.	29th September 1926.
Conveyance by X. and Y. vesting Middle Farm in Gilbert Wilcox (who had attained full age) on the trusts of the will of James Wilcox with a statement that they are the trustees of the settlement.	12th October 1927.
Conveyance on sale of Middle Farm by Gilbert Wilcox to M. Curtis, X. and Y. joining to receive the purchase money.	10th November 1927.
Will of M. Curtis purporting to appoint his infant son John Curtis executor.	1st February 1928.
Death of M. Curtis.	3rd April 1928.
Letters of administration with the will annexed granted to M. and N.	5th September 1928.

[NOTE.—Administration will either be granted to a trust Corporation or to not less than two individuals, if there are Settled Land Act trustees, it will, as respects the settled land, be granted to them.]

6TH SCH. —*cont.*

SPECIMEN No. 5.

OF THE TITLE OF GEORGE SMITH TO HOUSES IN JOHN STREET.

RELATING TO LEASEHOLD PROPERTY.

25th March 1921. *Lease by Charles Robinson to Henry Chubb, of 10 to 16 (even numbers) John Street, in the city of X., for 99 years from date at a yearly rent of 5l. for each house.*

26th March 1921. *First Mortgage (by subdemise) by Henry Chubb to A. for the residue of the term less 3 days for securing 3,000l. and interest. Declaration by Henry Chubb that he holds the head term in trust for A. subject to redemption.*

Same date. *Second Mortgage (by subdemise) to B. for the residue of the term less 2 days for securing 1,000l. and interest. Declaration by Henry Chubb that (subject to the First Mortgage) he holds the head term in trust for B. subject to redemption.*

Same date. Third Mortgage (by subdemise) to *C.* for residue of term less 1 day for securing 500*l.* and interest.

24th December 1924. *Transfer of First Mortgage by A. to T. in trust for Henry Chubb, who pays off the First Mortgage debt.*

1st January 1926. The Law of Property Act, 1925, comes into operation.

[NOTE.—It extinguishes the first mortgage term, because Henry Chubb was not entitled to keep it alive to the prejudice of his mesne incumbrancers.]

1st July 1926. Order of Court directing Henry Chubb to hand over the Lease, First Mortgage, and Transfer of that Mortgage to *B.*

20th July 1926. *Assignment on sale by B., under his power, to George Smith.*

[NOTE.—This conveys the head term created by the Lease and extinguishes all the mortgage terms. The head term may, if desired, be conveyed in the name of Henry Chubb.]

SEVENTH SCHEDULE.

Section 207.

Enactments repealed.

Session and Chapter.	Title or Short Title.	Extent of Repeals.
27 Hen. 8. c. 10.	The Statute of Uses	The whole Act.
32 Hen. 8. c. 34.	Graunties of reversions.	The whole Act.
13 Eliz. c. 5.	An Acte against fraudulent deedes, giftes, alienations, &c.	The whole Act.
27 Eliz. c. 4.	An Act against covenous and fraudulent conveyances.	The whole Act.
29 Car. 2. c. 3.	The Statute of Frauds	Sections one, two and three. In section four the words "or "upon any contract or sale "of lands, tenements or here- "ditaments or any interest in "or concerning them." Sections seven, eight, nine and twenty-four.
4 Will. & Mar. c. 16.	An Act to prevent frauds by clandestine mortgages.	The whole Act.
4 & 5 Anne c. 3.	An Act for the amendment of the law and the better Advancement of Justice.	Sections nine and ten.
4 Geo. 2 c. 28.	The Landlord and Tenant Act, 1730.	Section six.
11 Geo. 2. c. 19.	The Distress for Rent Act, 1737.	Section eleven.
39 & 40 Geo. 3. c. 98.	The Accumulations Act, 1800.	The whole Act.
11 Geo. 4. and 1 Will. 4. c. 46.	The Illusory Appointments Act, 1830.	The whole Act.
3 & 4 Will. 4. c. 74.	The Fines and Recovery Act, 1833.	Section thirty-two as respects settlements made or coming into operation after the commencement of this Act.
1 & 2 Vict. c. 110.	The Judgments Act, 1838.	Section thirteen.

7TH SCH. —*cont.*

Session and Chapter.	Title or Short Title.	Extent of Repeals.
8 & 9 Vict. c. 106.	The Real Property Act, 1845.	Sections two, three, four, five, six, seven and nine.
8 & 9 Vict. c. 112.	The Satisfied Terms Act, 1845.	The whole Act.
12 & 13 Vict. c. 26.	The Leases Act, 1849	The whole Act.
12 & 13 Vict. c. 110.	An Act for suspending until the first day of June one thousand eight hundred and fifty, the operation of an Act passed this Session intituled an Act for granting relief against defects in leases under powers of leasing in certain cases.	The whole Act.
13 & 14 Vict. c. 17.	The Leases Act, 1850	The whole Act.
15 & 16 Vict. c. 76.	The Common Law Procedure Act, 1852.	Section two hundred and nine.
17 & 18 Vict. c. 97.	The Inclosure Act, 1854.	The proviso to section eleven, and in section thirteen the words "so far as the same has "been apportioned upon the "lands of persons interested "and making applications as "aforesaid."
18 & 19 Vict. c. 15.	The Judgments Act, 1855.	In section eleven the words "nor "shall any such judgment, "decree, order, or rule, or the "money thereby secured be a "charge upon such lands tene- "ments or hereditaments so "vested in purchasers or "mortgagees."
22 & 23 Vict. c. 35.	The Law of Property Amendment Act, 1859.	Sections one, two, three, ten, eleven, twelve, twenty-one and twenty-four.
23 & 24 Vict. c. 38.	The Law of Property Amendment Act, 1860.	Sections six and eight.
31 & 32 Vict. c. 4.	The Sales of Reversions Act, 1867.	The whole Act.

7TH SCH. —*cont.*

Session and Chapter.	Title or Short Title.	Extent of Repeals.
31 & 32 Vict. c. 40.	The Partition Act, 1868.	The whole Act without prejudice to proceedings commenced thereunder before the commencement of this Act.
34 & 35 Vict. c. 31.	The Trade Union Act, 1871.	In section seven the words "not "exceeding one acre."
36 & 37 Vict. c. 66.	The Supreme Court of Judicature Act, 1873.	Subsections (3) to (7) of section twenty-five.
37 & 38 Vict. c. 37.	The Powers of Appointment Act, 1874.	The whole Act.
37 & 38 Vict. c. 78.	The Vendor and Purchaser Act, 1874.	The whole Act.
39 & 40 Vict. c. 17.	The Partition Act, 1876.	The whole Act without prejudice to proceedings commenced thereunder before the commencement of this Act.
44 & 45 Vict. c. 41.	The Conveyancing Act, 1881.	The whole Act, except section thirty so far as it relates to deaths occurring before the commencement of this Act, and except sections forty-two and forty-three so far as those sections relate to instruments coming into operation before the commencement of this Act and except section two and except section forty-eight.
45 & 46 Vict. c. 39.	The Conveyancing Act, 1882.	The whole Act.
55 & 56 Vict. c. 13.	The Conveyancing and Law of Property Act, 1892.	The whole Act.
55 & 56 Vict. c. 58.	The Accumulations Act, 1892.	The whole Act.
56 & 57 Vict. c. 21.	The Voluntary Conveyances Act, 1893.	The whole Act.
56 & 57 Vict. c. 53.	The Trustee Act, 1893	Section forty-four.
57 Vict. c. 10	The Trustee Act, 1893, Amendment Act, 1894.	Section three.

7TH SCH. —*cont.*

Session and Chapter.	Title or Short Title.	Extent of Repeals.
63 & 64 Vict. c. 26.	The Land Charges Act, 1900.	Subsections (1) & (2) of section two.
7 Edw. 7. c. 18.	The Married Women's Property Act, 1907.	Section one.
1 & 2 Geo. 5. c. 37.	The Conveyancing Act, 1911.	The whole Act except sections eight and fourteen and except section twelve so far as it relates to deaths occurring before the commencement of this Act.
12 & 13 Geo. 5. c. 16.	The Law of Property Act, 1922.	The whole of Part I. except sections four and ten so far as they relate to settled land, section twelve, section thirteen so far as it relates to settled land, and sections fourteen, sixteen, twenty-six, and subsection (2) of section twenty-eight. The whole of Part III. except subsection (4) of section eighty-three ; sections eighty-six and eighty-eight. Subsection (3) of section one hundred and thirteen. Subsection (5) of section one hundred and twenty-three. Subsection (10) of section one hundred and thirty-eight. Section one hundred and forty-six. Section one hundred and fifty-two. Subsection (13) of section one hundred and fifty-six ; Last paragraph of subsection (1) of section one hundred and fifty-eight. The First Schedule except as respects Part II. so far as it relates to settled land. The Second Schedule. The Third Schedule except so far as it relates to settled land. The Fourth Schedule. Sub-paragraph (3) of paragraph one of the Fifth Schedule

7TH SCH. —*cont.*

Session and Chapter.	Title or Short Title.	Extent of Repeals.
12 & 13 Geo. 5. c. 16—*cont.*	- - - -	The Sixth Schedule except paragraphs one and three and sub-paragraphs (1), (3) and the first paragraph of sub-paragraph (4) of paragraph four and sub-paragraphs (2) and (3) of paragraph five. The Eighth Schedule. In the Ninth Schedule, forms Nos. 5, 6, 7 and 9, and No. 8, except so far as it relates to settled land. The Eleventh Schedule. In the Fifteenth Schedule, sub-paragraph (3) of paragraph seven.
15 Geo. 5. c. 5.	The Law of Property (Amendment) Act, 1924.	Section three and the Third Schedule.

CHAPTER 21.

An Act to consolidate the Land Transfer Acts and the statute law relating to registered land.

[9th April 1925.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I.

PRELIMINARY.

Registers to be continued.

1. There shall continue to be kept at His Majesty's Land Registry, a register of title to freehold land and leasehold land.

What estates may be registered.

2.—(1) After the commencement of this Act, estates capable of subsisting as legal estates shall be the only interests in land in respect of which a proprietor can be registered and all other interests in registered land (except overriding interests and interests entered on the register

at or before such commencement) shall take effect in equity as minor interests, but all interests (except undivided shares in land) entered on the register at such commencement which are not legal estates shall be capable of being dealt with under this Act:

Provided that, on the occasion of the first dealing with any such interest, the register shall be rectified in such manner as may be provided by rules made to secure that the entries therein shall be similar to those which would have been made if the title to the land had been registered after the commencement of this Act.

(2) Subject as aforesaid, and save as otherwise expressly provided by this Act, this Act applies to land registered under any enactment replaced by this Act in like manner as it applies to land registered under this Act.

Interpretation.

3. In this Act unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say:—

(i) "Charge by way of legal mortgage" means a mortgage created by charge under which, by virtue of the Law of Property Act, 1925, the mortgagee is to be treated as an estate owner in like manner as if a mortgage term by demise or subdemise were vested in him, and "legal mortgage" has the same meaning as in that Act;

15 Geo. 5. c. 20.

(ii) "the Court" means the High Court of Justice, and also the Court of Chancery of the County Palatine of Lancaster or Durham, or the county court, where those courts respectively have jurisdiction;

(iii) "Death duty" means estate duty, succession duty, legacy duty, and every other duty leviable or payable on any death;

(iv) "Estate owner" means the owner of a legal estate, but an infant is not capable of being an estate owner;

(v) "Gazette" means the London Gazette;

(vi) "Income" includes rents and profits;

(vii) "Instrument" does not include a statute, unless the statute creates a settlement;

(viii) "Land" includes land of any tenure (including land, subject or not to manorial incidents, enfranchised under Part V. of the

Law of Property Act, 1922), and mines and minerals, whether or not held with the surface, buildings or parts of buildings (whether the division is horizontal, vertical or made in any other way) and other corporeal hereditaments; also a manor, an advowson, and a rent and other incorporeal hereditaments, and an easement, right, privilege, or benefit in, over, or derived from land; but not an undivided share in land; and "hereditaments" mean real property which on an intestacy might, before the commencement of this Act, have devolved on an heir; 12 & 13 Geo. 5. c. 16.

(ix) "Land charge" and "Local land charge" have the same meanings as in the Land Charges Act, 1925; 15 Geo. 5. c. 22.

(x) "Lease" includes an under-lease and any tenancy or agreement for a lease, under-lease or tenancy;

(xi) "Legal estates" mean the estates interests and charges in or over land subsisting or created at law which are by the Law of Property Act, 1925, authorised to subsist or to be created at law; and "Equitable interests" mean all the other interests and charges in or over land or in the proceeds of sale thereof; an equitable interest "capable of subsisting at law" means such as could validly subsist at law if clothed with the legal estate;

(xii) "Limitation Acts" mean the Real Property Limitation Acts, 1833, 1837 and 1874, and any Acts amending those Acts; 3 & 4 Will. 4. c. 27. 7 Will. 4. and 1 Vict. c. 28.

(xiii) "Manorial incidents" have the same meaning as in Part V. of the Law of Property Act, 1922; 37 & 38 Vict. c. 57.

(xiv) "Mines and minerals" include any strata or seam of minerals or substances in or under any land, and powers of working and getting the same, but not an undivided share thereof;

(xv) "Minor interests" mean the interests not capable of being disposed of or created by registered dispositions and capable of being overridden (whether or not a purchaser has notice thereof) by the proprietors unless

protected as provided by this Act, and all rights and interests which are not registered or protected on the register and are not overriding interests, and include—

(*a*) in the case of land held on trust for sale, all interests and powers which are under the Law of Property Act, 1925, capable of being overridden by the trustees for sale, whether or not such interests and powers are so protected; and

(*b*) in the case of settled land, all interests and powers which are under the Settled Land Act, 1925, and the Law of Property Act, 1925, or either of them, capable of being overridden by the tenant for life or statutory owner, whether or not such interests and powers are so protected as aforesaid;

15 Geo. 5. c. 18.

(xvi) "Overriding interests" mean all the incumbrances, interests, rights, and powers not entered on the register but subject to which registered dispositions are by this Act to take effect, and in regard to land registered at the commencement of this Act include the matters which are by any enactment repealed by this Act declared not to be incumbrances;

(xvii) "Personal representative" means the executor, original or by representation, or administrator for the time being of a deceased person, and as regards any liability for the payment of death duties includes any person who takes possession of or intermeddles with the property of a deceased person without the authority of the personal representatives or the court; and where there are special personal representatives for the purposes of any settled land, it means, in relation to that land, those representatives;

(xviii) "Possession" includes receipt of rents and profits or the right to receive the same, if any;

(xix) "Prescribed" means prescribed by general rules made in pursuance of this Act;

(xx) "Proprietor" means the registered proprietor for the time being of an estate in land or of a charge;

(xxi) "Purchaser" means a purchaser in good faith for valuable consideration and includes a lessee, mortgagee, or other person who for valuable consideration acquires any interest in land or in any charge on land;

(xxii) "Registered dispositions" mean dispositions which take effect under the powers conferred on the proprietor by way of transfer, charge, lease or otherwise and to which (when required to be registered) special effect or priority is given by this Act on registration;

(xxiii) "Registered estate," in reference to land, means the legal estate, or other registered interest, if any, as respects which a person is for the time being registered as proprietor, but does not include a registered charge and a "registered charge" includes a mortgage or incumbrance registered as a charge under this Act;

(xxiv) "Registered land" means land or any estate or interest in land the title to which is registered under this Act or any enactment replaced by this Act, and includes any easement, right, privilege, or benefit which is appurtenant or appendant thereto, and any mines and minerals within or under the same and held therewith;

(xxv) "Rent" includes a rent service or a rent-charge, or other rent, toll, duty, royalty, or annual or periodical payment, in money or money's worth, issuing out of or charged upon land, but does not include mortgage interest;

(xxvi) "Settled land" "settlement" "tenant for life" "statutory owner" "trustees of the settlement" "capital money" "committee" "lunatic" "defective" "trust corporation" "trust instrument" "vesting deed" "vesting order" "vesting assent" and "vesting instrument" have the same meanings as in the Settled Land Act, 1925;

(xxvii) A "term of years absolute" means a term of years, whether at a rent or not, taking effect

either in possession or in reversion, with or without impeachment for waste, subject or not to another legal estate and either certain or liable to determination by notice, re-entry, operation of law, or by a provision for cesser on redemption, or in any other event (other than the dropping of a life, or the determination of a determinable life interest), but does not include any term of years determinable with life or lives or with the cesser of a determinable life interest, nor, if created after the commencement of this Act, a term of years which is not expressed to take effect in possession within twenty-one years after the creation thereof where required by the Law of Property Act, 1925, to take effect within that period; and in this definition the expression "term of years" includes a term for less than a year, or for a year or years and a fraction of a year or from year to year;

(xxviii) "Trust for sale," in relation to land, means an immediate binding trust for sale, whether or not exercisable at the request or with the consent of any person, and with or without a power at discretion to postpone the sale;

(xxix) "Trustees for sale" mean the persons (including a personal representative) holding land on trust for sale;

(xxx) "United Kingdom" means Great Britain and Northern Ireland;

(xxxi) "Valuable consideration" includes marriage, but does not include a nominal consideration in money;

(xxxii) "Will" includes codicil.

PART II.

REGISTRATION OF LAND.

Freehold Land.

Application for registration of freehold land.

4. Where the title to be registered is a title to a freehold estate in land—

(*a*) any estate owner holding an estate in fee simple (including a tenant for life, statutory owner,

personal representative, or trustee for sale) whether subject or not to incumbrances; or

(*b*) any other person (not being a mortgagee where there is a subsisting right of redemption or a person who has merely contracted to buy land) who is entitled to require a legal estate in fee simple whether subject or not to incumbrances, to be vested in him;

may apply to the registrar to be registered in respect of such estate, or, in the case of a person not in a fiduciary position, to have registered in his stead any nominee, as proprietor with an absolute title or with a possessory title:

Provided that—

(i) Where an absolute title is required the applicant or his nominee shall not be registered as proprietor until and unless the title is approved by the registrar;

(ii) Where a possessory title is required the applicant or his nominee may be registered as proprietor on giving such evidence of title and serving such notices, if any, as may for the time being be prescribed;

(iii) If, on an application for registration with possessory title, the registrar is satisfied as to the title to the freehold estate, he may register it as absolute, whether the applicant consents to such registration or not, but in that case no higher fee shall be charged than would have been charged for registration with possessory title.

Effect of first registration with absolute title.

5. Where the registered land is a freehold estate, the registration of any person as first proprietor thereof with an absolute title shall vest in the person so registered an estate in fee simple in possession in the land, together with all rights, privileges, and appurtenances belonging or appurtenant thereto, subject to the following rights and interests, that is to say,—

(*a*) Subject to the incumbrances, and other entries, if any, appearing on the register; and

(*b*) Unless the contrary is expressed on the register, subject to such overriding interests, if any, as affect the registered land; and

(*c*) Where the first proprietor is not entitled for his own benefit to the registered land subject, as between himself and the persons entitled to minor interests, to any minor interests of such persons of which he has notice,

but free from all other estates and interests whatsoever, including estates and interests of His Majesty.

Effect of first registration with possessory title.

6. Where the registered land is a freehold estate, the registration of any person as first proprietor thereof with a possessory title only shall not affect or prejudice the enforcement of any estate, right or interest adverse to or in derogation of the title of the first proprietor, and subsisting or capable of arising at the time of registration of that proprietor; but save as aforesaid, shall have the same effect as registration of a person with an absolute title.

Qualified title.

7.—(1) Where an absolute title is required, and on the examination of the title it appears to the registrar that the title can be established only for a limited period, or only subject to certain reservations, the registrar may, on the application of the party applying to be registered, by an entry made in the register, except from the effect of registration any estate, right, or interest—

(*a*) arising before a specified date, or

(*b*) arising under a specified instrument or otherwise particularly described in the register,

and a title registered subject to such excepted estate, right, or interest shall be called a qualified title.

(2) Where the registered land is a freehold estate, the registration of a person as first proprietor thereof with a qualified title shall have the same effect as the registration of such person with an absolute title, save that registration with a qualified title shall not affect or prejudice the enforcement of any estate, right or interest appearing by the register to be excepted.

Leasehold Land.

Application for registration of leasehold land.

8.—(1) Where the title to be registered is a title to a leasehold interest in land—

(*a*) any estate owner (including a tenant for life, statutory owner, personal representative, or

trustee for sale, but not including a mortgagee where there is a subsisting right of redemption), holding under a lease for a term of years absolute of which more than twenty-one are unexpired, whether subject or not to incumbrances, or

(*b*) any other person (not being a mortgagee as aforesaid and not being a person who has merely contracted to buy the leasehold interest) who is entitled to require a legal leasehold estate held under such a lease as aforesaid (whether subject or not to incumbrances) to be vested in him,

may apply to the registrar to be registered in respect of such estate, or in the case of a person not being in a fiduciary position to have registered in his stead any nominee, as proprietor with an absolute title, with a good leasehold title or with a possessory title:

Provided that—

(i) Where an absolute title is required, the applicant or his nominee shall not be registered as proprietor until and unless the title both to the leasehold and to the freehold, and to any intermediate leasehold that may exist, is approved by the registrar;

(ii) Where a good leasehold title is required, the applicant or his nominee shall not be registered as proprietor until and unless the title to the leasehold interest is approved by the registrar;

(iii) Where a possessory title is required, the applicant or his nominee may be registered as proprietor on giving such evidence of title and serving such notices, if any, as may for the time being be prescribed;

(iv) If on an application for registration with a possessory title the registrar is satisfied as to the title to the leasehold interest, he may register it as good leasehold, whether the applicant consents to such registration or not, but in that case no higher fee shall be charged than would have been charged for registration with possessory title.

(2) Leasehold land held under a lease containing an absolute prohibition against all dealings therewith inter vivos shall not be registered in pursuance of this Act; and leasehold land held under a lease containing a restriction on any such dealings, shall not be registered under this Act unless and until provision is made in the prescribed manner for preventing any dealing therewith in contravention of the restriction by an entry on the register to that effect, or otherwise.

(3) Where on an application to register a mortgage term, wherein no right of redemption is subsisting, it appears that the applicant is entitled in equity to the superior term, if any, out of which it was created, the registrar shall register him as proprietor of the superior term without any entry to the effect that the legal interest in that term is outstanding, and on such registration the superior term shall vest in the proprietor and the mortgage term shall merge therein:

Provided that this subsection shall not apply where the mortgage term does not comprise the whole of the land included in the superior term, unless in that case the rent, if any, payable in respect of the superior term has been apportioned, or the rent is of no money value or no rent is reserved, and unless the covenants, if any, entered into for the benefit of the reversion have been apportioned (either expressly or by implication) as respects the land comprised in the mortgage term.

Effect of first registration with absolute title.

9. Where the registered land is a leasehold interest, the registration under this Act of any person as first proprietor thereof with an absolute title shall be deemed to vest in such person the possession of the leasehold interest described, with all implied or expressed rights, privileges, and appurtenances attached to such interest, subject to the following obligations, rights, and interests, that is to say,—

(*a*) Subject to all implied and express covenants, obligations, and liabilities incident to the registered land; and

(*b*) Subject to the incumbrances and other entries (if any) appearing on the register; and

(*c*) Unless the contrary is expressed on the register, subject to such overriding interests, if any, as affect the registered land; and

(*d*) Where such first proprietor is not entitled for his own benefit to the registered land subject, as between himself and the persons entitled to minor interests, to any minor interests of such persons of which he has notice;

but free from all other estates and interests whatsoever, including estates and interests of His Majesty.

Effect of first registration with good leasehold title.

10. Where the registered land is a leasehold interest, the registration of a person as first proprietor thereof with a good leasehold title shall not affect or prejudice the enforcement of any estate, right or interest affecting or in derogation of the title of the lessor to grant the lease, but, save as aforesaid, shall have the same effect as registration with an absolute title.

Effect of first registration with possessory title.

11. Where the registered land is a leasehold interest, the registration of a person as first proprietor thereof with a possessory title shall not affect or prejudice the enforcement of any estate, right, or interest (whether in respect of the lessor's title or otherwise) adverse to or in derogation of the title of such first registered proprietor, and subsisting or capable of arising at the time of the registration of such proprietor; but, save as aforesaid, shall have the same effect as registration with an absolute title.

Qualified title.

12.—(1) Where on examination it appears to the registrar that the title, either of the lessor to the reversion or of the lessee to the leasehold interest, can be established only for a limited period, or subject to certain reservations, the registrar may, upon the request in writing of the person applying to be registered, by an entry made in the register, except from the effect of registration any estate, right or interest—

(*a*) arising before a specified date, or

(*b*) arising under a specified instrument, or otherwise particularly described in the register,

and a title registered subject to any such exception shall be called a qualified title.

(2) Where the registered land is a leasehold interest, the registration of a person as first proprietor thereof with a qualified title shall not affect or prejudice the

enforcement of any estate, right, or interest appearing by the register to be excepted, but, save as aforesaid, shall have the same effect as registration with a good leasehold title or an absolute title, as the case may be.

Preliminaries to Registration.

Regulations as to examination of title by registrar.

13. The examination by the registrar of any title under this Act shall be conducted in the prescribed manner:

Provided that—

(*a*) Due notice shall be given, where the giving of such notice is prescribed, and sufficient opportunity shall be afforded to any persons desirous of objecting to come in and state their objections to the registrar; and

(*b*) The registrar shall have jurisdiction to hear and determine any such objections, subject to an appeal to the court in the prescribed manner and on the prescribed conditions; and

(*c*) If the registrar, upon the examination of any title, is of opinion that the title is open to objection, but is nevertheless a title the holding under which will not be disturbed, he may approve of such title, or may require the applicant to apply to the court, upon a statement signed by the registrar, for its sanction to the registration.

Evidence required before registration.

14.—(1) Before the completion of the registration of any estate in land in respect of which an examination of title is required, the applicant for registration and his solicitor, shall each, if required by the registrar, make an affidavit or declaration that to the best of his knowledge and belief all deeds, wills, and instruments of title, and all charges and incumbrances affecting the title which is the subject of the application, and all facts material to such title, have been disclosed in the course of the investigation of title made by the registrar.

(2) The registrar may require any person making an affidavit or declaration in pursuance of this section to state in his affidavit or declaration what means he

has had of becoming acquainted with the several matters referred to in this section; and if the registrar is of opinion that any further or other evidence is necessary or desirable, he may refuse to complete the registration until such further or other evidence is produced.

(3) Before the registration of any person who has not previously acquired the estate intended to be registered, the registrar shall be satisfied that all ad valorem stamp duty, if any, which, if the estate had been acquired by him, would have been payable in respect of the instrument vesting that estate in him, has been discharged.

Production of deeds.

15.—(1) When an application has been made to the registrar for the registration of any title to land, then if any person has in his possession or custody any deeds, instruments, or evidences of title relating to or affecting such title, to the production of which the applicant or any trustee for him is entitled, the registrar may require such person to show cause, within a time limited, why he should not produce such deeds, instruments, or evidences of title to the registrar, or otherwise, as the registrar may deem fit; and, unless cause is shown to the satisfaction of the registrar within the time limited, such deeds, instruments, and evidences of title may be ordered by the registrar to be produced at the expense of the applicant, at such time and place, and in such manner, and on such terms, as the registrar thinks fit.

(2) Any person aggrieved by an order of the registrar under this section may appeal in the prescribed manner to the court, which may annul or confirm the order of the registrar with or without modification.

(3) If any person disobeys any order of the registrar made in pursuance of this section, the registrar may certify such disobedience to the court, and thereupon such person, subject to such right of appeal as aforesaid, may be punished by the court in the same manner in all respects as if the order made by the registrar were the order of the court.

Deeds to be marked with notice of registration.

16. A person shall not be registered as proprietor until, if required by the registrar, he has produced to him such documents of title, if any, as will, in the opinion of the registrar, when stamped or otherwise marked, give notice to any purchaser or other person

dealing with the land of the fact of the registration, and the registrar shall stamp or otherwise mark the same accordingly, unless the registrar is satisfied that without such stamping or marking the fact of such registration cannot be concealed from a purchaser or other person dealing with the land:

Provided that, in the case of registration with a possessory title, the registrar may act on such reasonable evidence as may be prescribed as to the sufficiency of the documents produced, and as to dispensing with their production in special circumstances.

Costs of application for registration.

17.—(1) All costs, charges, and expenses that are incurred by any parties in or about any proceedings for registration shall, unless the parties otherwise agree, be taxed by the taxing officer of the court as between solicitor and client, but the persons by whom and the proportions in which such costs, charges, and expenses are to be paid shall be in the discretion of the registrar, and shall be determined according to orders of the registrar, regard being had to the following provision, namely, that any applicant under this Act is liable primâ facie to pay all costs, charges, and expenses incurred by or in consequence of his application, except—

(*a*) in a case where parties object whose rights are sufficiently secured without their appearance; and

(*b*) where any costs, charges, or expenses are incurred unnecessarily or improperly:

Provided that any party aggrieved by any order of the registrar under this section may appeal in the prescribed manner to the court, which may annul or confirm the order of the registrar, with or without modification.

(2) If any person disobeys any order of the registrar made in pursuance of this section, the registrar may certify such disobedience to the court, and thereupon such person, subject to such right of appeal as aforesaid, may be punished by the court in the same manner in all respects as if the order made by the registrar were the order of the court.

Part III.

Registered Dealings with Registered Land.

Dispositions of Freehold Land.

Powers of disposition of registered freeholds.

18.—(1) Where the registered land is a freehold estate the proprietor may, in the prescribed manner, transfer the registered estate in the land or any part thereof, and, subject to any entry in the register to the contrary, may in the prescribed manner—

(*a*) transfer the fee simple in possession of all or any mines or minerals apart from the surface; or of the surface without all or any of the mines and minerals;

(*b*) grant an annuity or a rentcharge in possession (either perpetual or for a term of years absolute) in any form which sufficiently refers in the prescribed manner to the registered land charged;

(*c*) grant in fee simple in possession any easement, right, or privilege in, over, or derived from the registered land or any part thereof, in any form which sufficiently refers, in the prescribed manner, to the registered servient tenement and to the dominant tenement, whether being registered land or not;

(*d*) transfer the fee simple in possession of the registered land or any part thereof, subject to the creation thereout, by way of reservation, in favour of any person of an annuity or a rentcharge in possession (either perpetual or for a term of years absolute), or of any easement, right, or privilege in possession (either in fee simple or for a term of years absolute);

(*e*) grant (subject or not to the reservation of an easement, right, or privilege) a lease of the registered land or any part thereof, or of all or any mines and minerals apart from the surface, or of the surface without all or any of the mines and minerals, or of an easement, right or privilege in or over the land, or any part thereof, for any term of years absolute for any purpose (but where by way of mortgage subject to the provisions of this Act and the

Law of Property Act, 1925, relating thereto), and in any form which sufficiently refers, in the prescribed manner, to the registered land.

(2) A perpetual annuity or rentcharge in possession may be granted or reserved to any person with or without a power of re-entry, exercisable at any time, on default of payment thereof, or on breach of covenant, and shall have incidental thereto all the powers and remedies (as varied if at all by the disposition creating the rentcharge) for recovery thereof conferred by the Law of Property Act, 1925; and where an easement, right, or privilege is reserved in a registered disposition for a legal estate, the reservation shall operate to create the same for the benefit of the land for the benefit of which the right is reserved.

(3) A lease for a term, not exceeding twenty-one years, to take effect in possession or within one year from the date thereof at a rent without taking a fine may be granted and shall take effect under this section notwithstanding that a caution, notice of deposit of a certificate, restriction, or inhibition (other than a bankruptcy inhibition) may be subsisting, but subject to the interests intended to be protected by any such caution, notice, restriction, or inhibition.

(4) The foregoing powers of disposition shall (subject to the express provisions of this Act and of the Law of Property Act, 1925, relating to mortgages) apply to dispositions by the registered proprietor by way of charge or mortgage; but no estate, other than a legal estate, shall be capable of being disposed of, or created under this section.

(5) In this Act "transfer" or "disposition" when referring to registered freehold land includes any disposition authorised as aforesaid; and "transferee" has a corresponding meaning.

Registration of disposition of freeholds.

19.—(1) The transfer of the registered estate in the land or part thereof shall be completed by the registrar entering on the register the transferee as the proprietor of the estate transferred, but until such entry is made the transferor shall be deemed to remain proprietor of the registered estate; and, where part only of the land is transferred, notice thereof shall also be noted on the register.

(2) All interests transferred or created by dispositions by the proprietor, other than a transfer of the registered estate in the land, or part thereof, shall, subject to the provisions relating to mortgages, be completed by registration in the same manner and with the same effect as provided by this Act with respect to transfers of registered estates and notice thereof shall also be noted on the register:

Provided that nothing in this subsection—

(*a*) shall authorise the registration of a lease granted for a term not exceeding twenty-one years, or require the entry of a notice of such a lease if it is granted at a rent without taking a fine; or

(*b*) shall authorise the registration of a mortgage term where there is a subsisting right of redemption; or

(*c*) shall render necessary the registration of any easement, right, or privilege except as appurtenant to registered land, or the entry of notice thereof except as against the registered title of the servient land.

Every such disposition shall, when registered, take effect as a registered disposition, and a lease made by the registered proprietor under the last foregoing section which is not required to be registered or noted on the register shall nevertheless take effect as if it were a registered disposition immediately on being granted.

(3) The general words implied in conveyances under the Law of Property Act, 1925, shall apply, so far as applicable thereto, to dispositions of a registered estate.

Effect of registration of dispositions of freeholds.

20.—(1) In the case of a freehold estate registered with an absolute title, a disposition of the registered land or of a legal estate therein, including a lease thereof, for valuable consideration shall, when registered, confer on the transferee or grantee an estate in fee simple or the term of years absolute or other legal estate expressed to be created in the land dealt with, together with all rights, privileges, and appurtenances belonging or appurtenant thereto, including (subject to any entry to the contrary in the register) the appropriate rights and interests which would, under the Law of Property Act, 1925, have been

transferred if the land had not been registered, subject—

(*a*) to the incumbrances and other entries, if any, appearing on the register; and

(*b*) unless the contrary is expressed on the register, to the overriding interests, if any, affecting the estate transferred or created,

but free from all other estates and interests whatsoever, including estates and interests of His Majesty, and the disposition shall operate in like manner as if the registered transferor or grantor were (subject to any entry to the contrary in the register) entitled to the registered land in fee simple in possession for his own benefit.

(2) In the case of a freehold estate registered with a qualified title a disposition of the registered land or of a legal estate therein, including a lease thereof, for valuable consideration shall, when registered, have the same effect as it would have had if the land had been registered with an absolute title, save that such disposition shall not affect or prejudice the enforcement of any right or interest appearing by the register to be excepted.

(3) In the case of a freehold estate registered with a possessory title, a disposition of the registered land or of a legal estate therein, including a lease thereof, for valuable consideration shall not affect or prejudice the enforcement of any right or interest adverse to or in derogation of the title of the first registered proprietor, and subsisting or capable of arising at the time of the registration of such proprietor; but, save as aforesaid, shall when registered have the same effect as it would have had if the land had been registered with an absolute title.

(4) Where any such disposition is made without valuable consideration, it shall, so far as the transferee or grantee is concerned, be subject to any minor interests subject to which the transferor or grantor held the same, but, save as aforesaid, shall, when registered, in all respects, and in particular as respects any registered dealings on the part of the transferee or grantee, have the same effect as if the disposition had been made for valuable consideration.

Dispositions of Leasehold Land.

Powers of disposition

21.—(1) Where the registered land is a leasehold interest the proprietor may, in the prescribed manner,

transfer the registered estate in the land or any part thereof, and, subject to any entry in the register to the contrary may in the prescribed manner— of registered leaseholds.

(*a*) transfer all or any of the leasehold mines and minerals apart from the surface; or the surface without all or any of the leasehold mines and minerals;

(*b*) grant (to the extent of the registered estate) any annuity or rentcharge in possession, easement, right or privilege in, over, or derived from the registered land or any part thereof, in any form which sufficiently refers, in the prescribed manner, to the registered lease, and to the dominant tenement, whether being registered land or not;

(*c*) transfer the registered land or any part thereof subject to a reservation to any person of any such annuity, rentcharge, easement, right, or privilege;

(*d*) grant (subject or not to the reservation of an easement, right or privilege) an underlease of the registered land, or any part thereof, or of all or any mines and minerals apart from the surface, or of the surface without all or any of the mines and minerals, or of an easement, right or privilege, in or over the registered land or any part thereof, for any term of years absolute of less duration than the registered estate and for any purpose (but where by way of mortgage, subject to the provisions of this Act and of the Law of Property Act, 1925, relating thereto), and in any form which sufficiently refers in the prescribed manner to the registered land, and in the case of an easement, right, or privilege, to the dominant tenement, whether being registered land or not.

(2) A disposition of registered leasehold land may be made subject to a rent legally apportioned in the prescribed manner, or to a rent not so apportioned.

(3) An underlease for a term, not exceeding twenty-one years, to take effect in possession or within one year from the date thereof, at a rent without taking a fine, may be granted and shall take effect under this section,

notwithstanding that a caution, notice of deposit of a certificate, restriction, or inhibition (other than a bankruptcy inhibition) may be subsisting, but subject to the interests intended to be protected by any such caution, notice, restriction or inhibition.

(4) The foregoing powers of disposition shall (subject to the express provisions of this Act and of the Law of Property Act, 1925, relating to mortgages) apply to dispositions by the registered proprietor by way of charge or mortgage, but no estate, other than a legal estate, shall be capable of being disposed of or created under this section.

(5) In this Act "transfer" or "disposition" when referring to registered leasehold land includes any disposition authorised as aforesaid, and "transferee" has a corresponding meaning.

Registration of dispositions of leaseholds.

22.—(1) A transfer of the registered estate in the land or part thereof shall be completed by the registrar entering on the register the transferee as proprietor of the estate transferred, but until such entry is made the transferor shall be deemed to remain the proprietor of the registered estate; and where part only of the land is transferred, notice thereof shall also be noted on the register.

(2) All interests transferred or created by dispositions by the registered proprietor other than the transfer of his registered estate in the land or in part thereof shall (subject to the provisions relating to mortgages) be completed by registration in the same manner and with the same effect as provided by this Act with respect to transfers of the registered estate, and notice thereof shall also be noted on the register in accordance with this Act:

Provided that nothing in this subsection—

(*a*) shall authorise the registration of an underlease originally granted for a term not exceeding twenty-one years, or require the entry of a notice of such an underlease if it is granted at a rent without taking a fine; or

(*b*) shall authorise the registration of a mortgage term where there is a subsisting right of redemption, or

(*c*) shall render necessary the registration of any easement, right, or privilege except as appur-

tenant to registered land, or the entry of notice thereof except as against the registered title of the servient land.

Every such disposition shall, when registered, take effect as a registered disposition, and an underlease made by the registered proprietor which is not required to be registered or noted on the register shall nevertheless take effect as if it were a registered disposition immediately on being granted.

(3) The general words implied in conveyances under the Law of Property Act, 1925, shall apply, so far as applicable thereto, to transfers of a registered leasehold estate.

Effect of registration of dispositions of leaseholds.

23.—(1) In the case of a leasehold estate registered with an absolute title, a disposition (including a subdemise thereof) for valuable consideration shall, when registered, be deemed to vest in the transferee or underlessee the estate transferred or created to the extent of the registered estate, or for the term created by the subdemise, as the case may require, with all implied or expressed rights, privileges, and appurtenances attached to the estate transferred or created, including (subject to any entry to the contrary on the register) the appropriate rights and interests which would under the Law of Property Act, 1925, have been transferred if the land had not been registered, but subject as follows:—

(*a*) To all implied and express covenants, obligations, and liabilities incident to the estate transferred or created; and

(*b*) To the incumbrances and other entries (if any) appearing on the register; and

(*c*) Unless the contrary is expressed on the register, to the overriding interests, if any, affecting the estate transferred or created,

but free from all other estates and interests whatsoever, including estates and interests of His Majesty; and the transfer or subdemise shall operate in like manner as if the registered transferor or sublessor were (subject to any entry to the contrary on the register) absolutely entitled to the registered lease for his own benefit.

(2) In the case of a leasehold estate registered with a good leasehold title, a disposition (including a subdemise thereof) for valuable consideration shall, when

registered, have the same effect as it would have had if the land had been registered with an absolute title, save that it shall not affect or prejudice the enforcement of any right or interest affecting or in derogation of the title of the lessor to grant the lease.

(3) In the case of a leasehold estate registered with a qualified title, a disposition (including a subdemise thereof) for valuable consideration shall, when registered, have the same effect as it would have had if the land had been registered with an absolute title, save that such disposition shall not affect or prejudice the enforcement of any right or interest (whether in respect of the lessor's title or otherwise) appearing by the register to be excepted.

(4) In the case of a leasehold estate registered with a possessory title, a disposition (including a subdemise thereof) for valuable consideration shall not affect or prejudice the enforcement of any right or interest (whether in respect of the lessor's title or otherwise) adverse to or in derogation of the title of the first registered proprietor, and subsisting or capable of arising at the time of the registration of such proprietor, but save as aforesaid shall, when registered, have the same effect as it would have had if the land had been registered with an absolute title.

(5) Where any such disposition is made without valuable consideration it shall, so far as the transferee or underlessee is concerned, be subject to any minor interests subject to which the transferor or sublessor held the same; but, save as aforesaid, shall, when registered, in all respects, and in particular as respects any registered dealings on the part of the transferee or underlessee, have the same effect as if the disposition had been made for valuable consideration.

Implied covenants on transfers of leaseholds.

24.—(1) On the transfer, otherwise than by way of underlease, of any leasehold interest in land under this Act, unless there be an entry on the register negativing such implication, there shall be implied—

(*a*) on the part of the transferor, a covenant with the transferee that, notwithstanding anything by such transferor done, omitted, or knowingly suffered, the rent, covenants, and conditions reserved and contained by and in the registered

lease, and on the part of the lessee to be paid, performed, and observed, have been so paid, performed, and observed up to the date of the transfer; and

(*b*) on the part of the transferee, a covenant with the transferor, that during the residue of the term the transferee and the persons deriving title under him will pay, perform, and observe the rent, covenants, and conditions by and in the registered lease reserved and contained, and on the part of the lessee to be paid, performed, and observed, and will keep the transferor and the persons deriving title under him indemnified against all actions, expenses, and claims on account of the non-payment of the said rent or any part thereof, or the breach of the said covenants or conditions, or any of them.

(2) On a transfer of part of the land held under a lease, the covenant implied on the part of the transferee by this section shall be limited to the payment of the apportioned rent, if any, and the performance and observance of the covenants by the lessee and conditions in the registered lease so far only as they affect the part transferred. Where the transferor remains owner of part of the land comprised in the lease, there shall also be implied on his part, as respects the part retained, a covenant with the transferee similar to that implied on the part of the transferee under this subsection.

Charges on Freehold and Leasehold Land.

Proprietor's power to create charges.

25.—(1) The proprietor of any registered land may by deed—

(*a*) charge the registered land with the payment at an appointed time of any principal sum of money either with or without interest;

(*b*) charge the registered land in favour of a building society under the Building Societies Acts, 1874 to 1894, in accordance with the rules of that society.

(2) A charge may be in any form provided that—

(*a*) the registered land comprised in the charge is described by reference to the register or in

any other manner sufficient to enable the registrar to identify the same without reference to any other document;

(*b*) the charge does not refer to any other interest or charge affecting the land which—

(i) would have priority over the same and is not registered or protected on the register,

(ii) is not an overriding interest.

(3) Any provision contained in a charge which purports to—

(i) take away from the proprietor thereof the power of transferring it by registered disposition or of requiring the cessation thereof to be noted on the register; or

(ii) affect any registered land or charge other than that in respect of which the charge is to be expressly registered,

shall be void.

Registration of charges.

26.—(1) The charge shall be completed by the registrar entering on the register the person in whose favour the charge is made as the proprietor of such charge, and the particulars of the charge.

(2) A charge may be registered notwithstanding that it contains any trust, power to appoint new trustees, or other provisions for giving effect to the security.

(3) Where the land, in respect of which a charge is registered, is registered with a good leasehold, qualified or possessory title, the charge shall take effect subject to the provisions of this Act with respect to land registered with such a title.

Terms of years implied in or granted by charges.

27.—(1) A registered charge shall, unless made or taking effect by demise or sub-demise, and subject to any provision to the contrary contained in the charge, take effect as a charge by way of legal mortgage.

(2) Subject to the provisions of the Law of Property Act, 1925, a registered charge may contain in the case of freehold land, an express demise, and in the case of leasehold land an express subdemise of the land to the creditor

for a term of years absolute, subject to a proviso for cesser on redemption.

(3) Any such demise or subdemise or charge by way of legal mortgage shall take effect from the date of the delivery of the deed containing the same, but subject to the estate or interest of any person (other than the proprietor of the land) whose estate or interest (whenever created) is registered or noted on the register before the date of registration of the charge.

(4) Any charge registered before the commencement of this Act shall take effect as a demise or subdemise of the land in accordance with the provisions of the Law of Property Act, 1925, and the registered estate shall (without prejudice to any registered charge or any term or subterm created by a charge or by this Act) vest in the person appearing by the register to be entitled to the ultimate equity of redemption.

Implied covenants in charges.

28.—(1) Where a registered charge is created on any land there shall be implied on the part of the person being proprietor of such land at the time of the creation of the charge, unless there be an entry on the register negativing such implication—

(*a*) a covenant with the proprietor for the time being of the charge to pay the principal sum charged, and interest, if any, thereon, at the appointed time and rate; and

(*b*) a covenant, if the principal sum or any part thereof is unpaid at the appointed time, to pay interest half-yearly at the appointed rate as well after as before any judgment is obtained in respect of the charge on so much of the principal sum as for the time being remains unpaid.

(2) Where a registered charge is created on any leasehold land there shall (in addition to the covenants aforesaid) be implied on the part of the person being proprietor of such land at the time of the creation of the charge, unless there be an entry on the register negativing such implication, a covenant with the proprietor for the time being of the charge, that the person being proprietor of such land at the time of the creation of the charge, or the persons deriving title under him, will pay, perform, and observe the rent, covenants, and conditions, by and in the registered lease reserved and contained, and on

the part of the lessee to be paid, performed, and observed, and will keep the proprietor of the charge, and the persons deriving title under him, indemnified against all proceedings, expenses, and claims, on account of the non-payment of the said rent, or any part thereof, or the breach of the said covenants or conditions, or any of them.

Priorities of registered charges.

29. Subject to any entry to the contrary on the register, registered charges on the same land shall as between themselves rank according to the order in which they are entered on the register, and not according to the order in which they are created.

Protection of charges for securing further advances.

30.—(1) When a registered charge is made for securing further advances, the registrar shall, before making any entry on the register which would prejudicially affect the priority of any further advance thereunder, give to the proprietor of the charge at his registered address, notice by registered post of the intended entry, and the proprietor of the charge shall not, in respect of any further advance, be affected by such entry, unless the advance is made after the date when the notice ought to have been received in due course of post.

(2) If, by reason of any failure on the part of the registrar or the post office in reference to the notice, the proprietor of the charge suffers loss in relation to a further advance, he shall be entitled to be indemnified under this Act in like manner as if a mistake had occurred in the register; but if the loss arises by reason of an omission to register or amend the address for service, no indemnity shall be payable under this Act.

Alteration of charges.

31.—(1) The proprietor of a charge may by deed, in the prescribed manner, alter the terms of the charge, with the consent of the proprietor of the registered land and of the proprietors of all registered charges (if any) of equal or inferior priority, affected by the alteration.

(2) A deed of alteration of a charge may contain an express demise or subdemise in like manner as an original deed of charge, and the provisions of this Act relating to a demise or subdemise contained in a deed of charge shall apply accordingly.

(3) The alteration shall be completed by the registrar entering it on the register.

Provisions when charge registered in names of several proprietors.

32. Where a charge is registered in the names of two or more proprietors (whether jointly or in undivided shares) the mortgage term implied or comprised in the charge shall (but without prejudice to the beneficial interests in the mortgage money) vest in them as joint tenants, and the proprietors or the survivors or survivor of them or the personal representatives of the last survivor, shall have power to give valid receipts, notwithstanding that the mortgage money may be held in undivided shares, in like manner as if the money had been held on a joint account.

Transfer of charges.

33.—(1) The proprietor of any registered charge may, in the prescribed manner, transfer the charge to another person as proprietor.

(2) The transfer shall be completed by the registrar entering on the register the transferee as proprietor of the charge transferred, but the transferor shall be deemed to remain proprietor of the charge until the name of the transferee is entered on the register in respect thereof.

(3) A registered transferee for valuable consideration of a charge and his successors in title shall not be affected by any irregularity or invalidity in the original charge itself of which the transferee did not have notice when it was transferred to him.

(4) On registration of any transfer of a charge, the term or subterm (if any) granted expressly or by implication by the charge or any deed of alteration shall, without any conveyance or assignment and notwithstanding anything to the contrary in the transfer or any other instrument, vest in the proprietor for the time being of the charge.

(5) Subject to any entry to the contrary on the register, the vesting of any term or subterm in accordance with this section in the proprietor of a charge shall, subject to the right of redemption, have the same effect as if such proprietor had been registered as the transferee for valuable consideration of the term or subterm.

Powers of proprietor of charge.

34.—(1) Subject to any entry on the register to the contrary, the proprietor of a charge shall have and may exercise all the powers conferred by law on the owner of a legal mortgage.

(2) Subject to any entry to the contrary on the register and subject to the right of any persons appearing on the register to be prior incumbrancers, the proprietor of a charge may, after entry into possession and after having acquired a title under the Limitation Acts, execute a declaration, in the prescribed form, that the right of redemption is barred, and thereupon he shall be entitled, subject to furnishing any evidence which may be prescribed in support thereof, to be registered as proprietor of the land, with the same consequences as if he had been a purchaser for valuable consideration of the land under the power of sale.

(3) An order for foreclosure shall be completed by the registration of the proprietor of the charge (or such other person as may be named in the foreclosure order absolute for that purpose) as the proprietor of the land, and by the cancellation of the charge and of all incumbrances and entries inferior thereto; and such registration shall operate in like manner and with the same consequences as if the proprietor of the charge or other person aforesaid had been a purchaser for valuable consideration of the land under a subsisting power of sale.

(4) A sale by the court or under the power of sale shall operate and be completed by registration in the same manner, as nearly as may be (but subject to any alterations on the register affecting the priority of the charge), as a transfer for valuable consideration by the proprietor of the land at the time of the registration of the charge would have operated or been completed, and, as respects the land transferred, the charge and all incumbrances and entries inferior thereto shall be cancelled.

(5) Notwithstanding the creation of a term or subterm, expressly or by implication, under this Act, such transfer shall (subject to any prior incumbrances or other entries on the register) operate to transfer the registered estate, and the mortgage term or subterm shall become merged, and any purported disposition of or dealing with the mortgage term or subterm apart from the charge, and any process or act purporting to keep alive that term or subterm after the cessation of the charge shall be void.

(6) For the purposes of this section an incumbrance or entry on the register shall not be deemed to be inferior

to the charge in right of which title is made if the incumbrance or other interest is given the requisite priority by statute or otherwise.

Discharge of charges.

35.—(1) The registrar shall, on the requisition of the proprietor of any charge, or on due proof of the satisfaction (whole or partial) thereof, notify on the register in the prescribed manner, by cancelling or varying the original entry or otherwise, the cessation (whole or partial) of the charge, and thereupon the charge shall be deemed to have ceased (in whole or in part) accordingly.

(2) On the notification on the register of the entire cessation of a registered charge, whether as to the whole or part only of the land affected thereby, the term or sub-term implied in or granted by the charge or by any deed of alteration, so far as it affects the land to which the discharge extends, shall merge and be extinguished in the registered estate in reversion without any surrender.

Rules as to subcharges.

36. Rules shall be made for applying the provisions of the Law of Property Act, 1925, and of this Act to the case of charges by way of submortgage, whether registered before or after the commencement of this Act.

As to Dealings generally.

Powers of persons entitled to be registered.

37.—(1) Where a person on whom the right to be registered as proprietor of registered land or of a registered charge has devolved by reason of the death of the proprietor, or has been conferred by a disposition or charge, in accordance with this Act, desires to dispose of or charge the land or to deal with the charge before he is himself registered as proprietor, he may do so in the prescribed manner, and subject to the prescribed conditions.

(2) Subject to the provisions of this Act with regard to registered dealings for valuable consideration, a disposition or charge so made shall have the same effect as if the person making it were registered as proprietor.

(3) Rules may be made for extending the provisions of this section to the case of any person entitled to be registered as first proprietor, and to any other case for which it may be deemed expedient to prescribe.

Certain provisions of the Law

38.—(1) The provisions as to execution of a conveyance on sale contained in the Law of Property Act,

of Property Act to apply.

1925, shall apply, so far as applicable thereto, to transfers on sale of registered land.

(2) Rules may be made for prescribing the effect of covenants implied by virtue of the Law of Property Act, 1925, in dispositions of registered land.

Deeds off register, how far to be void.

39.—(1) Where any transaction relating exclusively to registered land or to a registered charge is capable of being effected and is effected by a registered disposition, then, subject to any prescribed exceptions, any deed or instrument, other than the registered disposition, which is executed by the proprietor for the purpose of giving effect to the transaction shall be void, but only so far as the transaction is carried out by the registered disposition.

(2) Rules may be made for providing for cases in which any additional deed or instrument may be properly executed and for enabling the registrar to certify that in any special cases an additional deed or instrument will be proper and valid.

Creation and discharge of restrictive covenants.

40.—(1) Subject to any entry to the contrary on the register, and without prejudice to the rights of persons entitled to overriding interests (if any) and to any incumbrances entered on the register, who may not concur therein, the proprietor may in any registered disposition or other instrument by covenant, condition, or otherwise, impose or make binding, so far as the law permits, any obligation or reservation with respect to the building on or other user of the registered land or any part thereof, or with respect to mines and minerals (whether registered separately or as part of the registered land), or with respect to any other thing in like manner as if the proprietor were entitled to the registered land for his own benefit.

(2) The proprietor may (subject as aforesaid) release or waive any rights arising or which may arise by reason of any covenant or condition, or release any obligation or reservation the benefit of which is annexed or belongs to the registered land, to the same extent and in the same manner as if the rights in respect of the breach or the benefit of the covenant, condition, obligation, or reservation had been vested in him absolutely for his own benefit.

This subsection shall authorise the proprietor in reference to the registered land to give any licence, consent or approval which a tenant for life is by the Settled Land Act, 1925, authorised to give in reference to settled land.

(3) Entries shall be made on the register in the prescribed manner of all obligations and reservations imposed by the proprietor, of the release or waiver of any obligation or reservation, and of all obligations and reservations acquired by him for the benefit of the registered estate.

Transmissions of Land and Charges on Death and Bankruptcy.

Transmissions of land and charges on death of proprietor.

41.—(1) On the death of the sole proprietor, or of the survivor of two or more joint proprietors, of any registered land or charge, the personal representative of such sole deceased proprietor, or of the survivor of such joint proprietors, shall be entitled to be registered as proprietor in his place:

Provided that, where a special or additional personal representative is appointed by the court in reference to a registered estate, then on production of the order he shall be registered as proprietor either solely or jointly with any of the other personal representatives, as the case may require, and a copy of the order shall be filed at the registry.

(2) Pending an application for the appointment of a special or additional personal representative, a caution against dealings may be lodged under this Act by any person intending to apply to the court for the appointment.

(3) Subject as aforesaid, provision shall be made by rules for the manner in which effect is to be given on the register to transmissions on death.

(4) An assent by a personal representative shall, in the case of registered land, be in the prescribed form and the production of the assent in that form shall authorise the registrar to register the person named in the assent as the proprietor of the registered land.

Transmissions on bankruptcy

42.—(1) Upon the bankruptcy of the proprietor of any registered land or charge his trustee shall (on production of the prescribed evidence to be furnished

of proprietor.

by the official receiver or trustee in bankruptcy that the land or charge is part of the property of the bankrupt divisible amongst his creditors) be entitled to be registered as proprietor in his place.

The official receiver shall be entitled to be registered pending the appointment of a trustee.

4 & 5 Geo. 5. c. 59.

(2) Where a trustee in bankruptcy disclaims a registered lease under section fifty-four of the Bankruptcy Act, 1914, and an order is made by the court vesting the lease in any person, the order shall direct the alteration of the register in favour of the person in whom the lease is so vested, and in such case the registrar shall, on being served with such order, forthwith (without notice to the bankrupt or any other person and without requiring production of the land certificate) alter the register accordingly, and no right to indemnity under this Act shall arise by reason of such alteration.

Effect of transmissions.

43. Any person registered in the place of a deceased or bankrupt proprietor shall hold the land or charge in respect of which he is registered upon the trusts and for the purposes upon and subject to which the same is applicable by law, and subject to any minor interests subject to which the deceased or bankrupt proprietor held the same; but, save as aforesaid, he shall in all respects, and in particular as respects any registered dealings with such land or charge, be in the same position as if he had taken such land or charge under a transfer for valuable consideration.

Vesting of term or subterm on transmission of charge.

44.—(1) On the registration of any transmission of a charge the term or subterm granted (expressly or by implication) by the charge or any deed of alteration shall without any conveyance or assignment vest in the proprietor for the time being of the charge.

(2) Subject to any entry to the contrary on the register, the vesting of a term or subterm in accordance with this section in the proprietor of a charge, shall, subject to the right of redemption, have the same effect as if such proprietor had been registered as the transferee for valuable consideration of the term or subterm.

Proof of transmission of registered proprietorship.

45. The fact of any person having become entitled to any registered land or charge in consequence of the death or bankruptcy of any proprietor shall be proved in the prescribed manner.

Subsidiary Provisions.

Determination or variation of leases, incumbrances, &c.

46. The registrar shall, on proof to his satisfaction of—

(*a*) the determination of any lease, rentcharge, or other estate or interest the title to which is registered under this Act; or

(*b*) the discharge or determination (whole or partial) or variation of any lease, incumbrance, rentcharge, easement, right or other interest in land which is noted on the register as an incumbrance,

notify in the prescribed manner on the register the determination (whole or partial) or variation of such lease or other interest.

Vesting instruments and dispositions in name of proprietor.

15 Geo. 5. c. 19.

47.—(1) The registrar shall give effect on the register to any vesting order or vesting declaration (express or implied) made on the appointment or discharge of a trustee or otherwise, and to dispositions made in the name and on behalf of a proprietor by a person authorised to make the disposition; and the provisions of the Trustee Act, 1925, relating to the appointment and discharge of trustees and the vesting of trust property, shall apply to registered land subject to the proper entry being made on the register.

(2) The registrar shall also give effect on the register in the prescribed manner to any vesting instrument which may be made pursuant to any statutory power.

Part IV.

Notices, Cautions, Inhibitions and Restrictions.

Notices.

Registration of notice of lease.

48.—(1) Any lessee or other person entitled to or interested in a lease of registered land, where the term granted is not an overriding interest, may apply to the registrar to register notice of such lease in the prescribed manner, and when so registered, every proprietor and the persons deriving title under him shall be deemed to be affected with notice of such lease, as being an incumbrance on the registered land in respect of which the notice is entered:

Provided that a proprietor of a charge or incumbrance registered or protected on the register prior to the registration of such notice shall not be deemed to be so affected

by the notice unless such proprietor is, by reason of the lease having been made under a statutory or other power or by reason of his concurrence or otherwise, bound by the terms of the lease.

(2) In order to register notice of a lease, if the proprietor of the registered land affected does not concur in the registration thereof, the applicant shall obtain an order of the court authorising the registration of notice of the lease, and shall deliver the order to the registrar, accompanied with the original lease or a copy thereof, and thereupon the registrar shall make a note in the register identifying the lease or copy so deposited, and the lease or copy so deposited shall be deemed to be the instrument of which notice is given; but if the proprietor concurs in the notice being registered, notice may be entered in such manner as may be agreed upon:

Provided that, where the lease is binding on the proprietor of the land, neither the concurrence of such proprietor nor an order of the court shall be required.

Rules to provide for notices of other rights, interests and claims.

49.—(1) The provisions of the last foregoing section shall be extended by the rules so as to apply to the registration of notices of or of claims in respect of—

(*a*) The grant or reservation of any annuity or rentcharge in possession, either perpetual or for a term of years absolute:

(*b*) The severance of any mines or minerals from the surface, except where the mines and minerals severed are expressly included in the registration:

(*c*) Land charges until the land charge is registered as a registered charge:

(*d*) The right of any person interested in the proceeds of sale of land held on trust for sale or in land subject to a settlement to require that (unless a trust corporation is acting as trustee) there shall be at least two trustees of the disposition on trust for sale or of the settlement:

53 & 54 Vict. c. 29.

(*e*) The rights of any widow in respect of dower or under the Intestates' Estates Act, 1890, and any right to free bench or other like right saved by any statute coming into force concurrently with this Act (which rights shall take effect in equity as minor interests):

(*f*) Creditors' notices and any other right, interest, or claim which it may be deemed expedient to protect by notice instead of by caution, inhibition, or restriction.

(2) A notice shall not be registered in respect of any estate, right, or interest which (independently of this Act) is capable of being overridden by the proprietor under a trust for sale or the powers of the Settled Land Act, 1925, or any other statute, or of a settlement, and of being protected by a restriction in the prescribed manner:

Provided that notice of such an estate right or interest may be lodged pending the appointment of trustees of a disposition on trust for sale or a settlement, and if so lodged, shall be cancelled if and when the appointment is made and the proper restriction (if any) is entered.

(3) A notice when registered in respect of a right, interest, or claim shall not affect prejudicially—

(*a*) The powers of disposition of the personal representative of the deceased under whose will or by the operation of whose intestacy the right, interest, or claim arose; or

(*b*) The powers of disposition (independently of this Act) of a proprietor holding the registered land on trust for sale.

Notices of restrictive covenants.

50.—(1) Any person entitled to the benefit of a restrictive covenant or agreement (not being a covenant or agreement made between a lessor and lessee) with respect to the building on or other user of registered land may apply to the registrar to enter notice thereof on the register, and where practicable the notice shall be by reference to the instrument, if any, which contains the covenant or agreement, and a copy or abstract of such instrument shall be filed at the registry; and where any such covenant or agreement appears to exist at the time of first registration, notice thereof shall be entered on the register. In the case of registered land the notice aforesaid shall take the place of registration as a land charge.

(2) When such a notice is entered the proprietor of the land and the persons deriving title under him (except incumbrancers or other persons who at the time when the notice is entered may not be bound by the covenant or

agreement) shall be deemed to be affected with notice of the covenant or agreement as being an incumbrance on the land.

(3) Where the covenant or agreement is discharged or modified by an order under the Law of Property Act, 1925, or otherwise, or the court refuses to grant an injunction for enforcing the same, the entry shall either be cancelled or reference made to the order or other instrument and a copy of the order, judgment, or instrument shall be filed at the registry.

(4) The notice shall, when practicable, refer to the land, whether registered or not, for the benefit of which the restriction was made.

Notice of manorial incidents.

51. Where land is affected by manorial incidents, the registrar may enter a note of that fact on the register, and may cancel such note when extinguishment of the manorial incidents has been proved to his satisfaction.

Effect of notices.

52.—(1) A disposition by the proprietor shall take effect subject to all estates, rights, and claims which are protected by way of notice on the register at the date of the registration or entry of notice of the disposition, but only if and so far as such estates, rights, and claims may be valid and are not (independently of this Act) overridden by the disposition.

(2) Where notice of a claim is entered on the register, such entry shall operate by way of notice only, and shall not operate to render the claim valid whether made adversely to or for the benefit of the registered land or charge.

Cautions.

Cautions against first registration.

53.—(1) Any person having or claiming such an interest in land not already registered as entitles him to object to any disposition thereof being made without his consent, may lodge a caution with the registrar to the effect that the cautioner is entitled to notice in the prescribed form, and to be served in the prescribed manner, of any application that may be made for the registration of an interest in the land affecting the right of the cautioner.

(2) The caution shall be supported by an affidavit or declaration in the prescribed form, stating the nature of

the interest of the cautioner, the land and estate therein to be affected by such caution, and such other matters as may be prescribed.

(3) After a caution has been lodged in respect of any estate, which has not already been registered, registration shall not be made of such estate until notice has been served on the cautioner to appear and oppose, if he thinks fit, such registration, and the prescribed time has elapsed since the date of the service of such notice, or the cautioner has entered an appearance, whichever may first happen.

Cautions against dealings.

54.—(1) Any person interested under any unregistered instrument, or interested as a judgment creditor, or otherwise howsoever, in any land or charge registered in the name of any other person, may lodge a caution with the registrar to the effect that no dealing with such land or charge on the part of the proprietor is to be registered until notice has been served upon the cautioner:

Provided that a person whose estate, right, interest, or claim has been registered or protected by a notice or restriction shall not be entitled (except with the consent of the registrar) to lodge a caution in respect of such estate, right, interest, or claim, but this provision shall not operate to prevent an incumbrancer or assignee of a life interest, remainder, reversion or executory interest, from lodging a priority caution in a specially prescribed form.

(2) A caution lodged under this section shall be supported by such evidence as may be prescribed.

Effect of cautions against dealings.

55.—(1) After any such caution against dealings has been lodged in respect of any registered land or charge, the registrar shall not, without the consent of the cautioner, register any dealing or make any entry on the register for protecting the rights acquired under a deposit of a land or charge certificate or other dealing by the proprietor with such land or charge until he has served notice on the cautioner, warning him that his caution will cease to have any effect after the expiration of the prescribed number of days next following the date at which such notice is served; and after the expiration of such time as aforesaid the caution shall cease unless an order to the contrary is made by the registrar, and

upon the caution so ceasing the registered land or charge may be dealt with in the same manner as if no caution had been lodged.

(2) If before the expiration of the said period the cautioner, or some person on his behalf, appears before the registrar, and where so required by the registrar gives sufficient security to indemnify every party against any damage that may be sustained by reason of any dealing with the registered land or charge, or the making of any such entry as aforesaid, being delayed, the registrar may thereupon, if he thinks fit to do so, delay registering any dealing with the land or charge or making any such entry for such period as he thinks just.

General provisions as to cautions.

56.—(1) Any person aggrieved by any act done by the registrar in relation to a caution under this Act may appeal to the court in the prescribed manner.

(2) A caution lodged in pursuance of this Act shall not prejudice the claim or title of any person and shall have no effect whatever except as in this Act mentioned.

(3) If any person lodges a caution with the registrar without reasonable cause, he shall be liable to make to any person who may have sustained damage by the lodging of the caution such compensation as may be just, and such compensation shall be recoverable as a debt by the person who has sustained damage from the person who lodged the caution.

(4) The personal representative of a deceased cautioner may consent or object to registration or a dealing in the same manner as the cautioner.

Inhibitions.

Power for court or registrar to inhibit registered dealings.

57.—(1) The court, or, subject to an appeal to the court, the registrar, upon the application of any person interested, made in the prescribed manner, in relation to any registered land or charge, may, after directing such inquiries (if any) to be made and notices to be given and hearing such persons as the court or registrar thinks expedient, issue an order or make an entry inhibiting for a time, or until the occurrence of an event to be named in such order or entry, or generally until further order or entry, the registration or entry of any dealing with any registered land or registered charge.

(2) The court or registrar may make or refuse to make any such order or entry, and annex thereto any terms or conditions the court or registrar may think fit, and discharge such order or cancel such entry when granted, with or without costs, and generally act in the premises in such manner as the justice of the case requires.

(3) Any person aggrieved by any act done by the registrar in pursuance of this section may appeal to the court in the prescribed manner.

(4) The court or the registrar may, in lieu of an inhibition, order a notice or restriction to be placed on the register.

Restrictions.

Power to place restrictions on register.

58.—(1) Where the proprietor of any registered land or charge desires to place restrictions on transferring or charging the land or on disposing of or dealing with the land or charge in any manner in which he is by this Act authorised to dispose of or deal with it, or on the deposit by way of security of any certificate, the proprietor may apply to the registrar to make an entry in the register that no transaction to which the application relates shall be effected, unless the following things, or such of them as the proprietor may determine, are done—

(*a*) unless notice of any application for the transaction is transmitted by post to such address as he may specify to the registrar;

(*b*) unless the consent of some person or persons, to be named by the proprietor, is given to the transaction;

(*c*) unless some such other matter or thing is done as may be required by the applicant and approved by the registrar:

Provided that no restriction under this section shall extend or apply to dispositions of or dealings with minor interests.

(2) The registrar shall thereupon, if satisfied of the right of the applicant to give the directions, enter the requisite restriction on the register, and no transaction to which the restriction relates shall be effected except in conformity therewith; but it shall not be the duty

of the registrar to enter any such restriction, except upon such terms as to payment of fees and otherwise as may be prescribed, or to enter any restriction that the registrar may deem unreasonable or calculated to cause inconvenience.

(3) In the case of joint proprietors the restriction may be to the effect that when the number of proprietors is reduced below a certain specified number no disposition shall be registered except under an order of the court, or of the registrar after inquiry into title, subject to appeal to the court, and, subject to general rules, such an entry under this subsection as may be prescribed shall be obligatory unless it is shown to the registrar's satisfaction that the joint proprietors are entitled for their own benefit, or can give valid receipts for capital money, or that one of them is a trust corporation.

(4) Any such restrictions, except such as are in this section declared to be obligatory, may at any time be withdrawn or modified at the instance of all the persons for the time being appearing by the register to be interested in such directions, and shall also be liable to be set aside by an order of the court.

(5) Rules may be made to enable applications to be made for the entry of restrictions by persons other than the proprietor.

Protection of various Interests.

Writs, orders, deeds of arrangement, pending actions, &c.

59.—(1) A writ, order, deed of arrangement, pending action, or other interest which in the case of unregistered land may be protected by registration under the Land Charges Act, 1925, shall, where the land affected or the charge securing the debt affected is registered, be protected only by lodging a creditor's notice, a bankruptcy inhibition or a caution against dealings with the land or the charge.

(2) Registration of a land charge (other than a local land charge) shall, where the land affected is registered, be effected only by registering under this Act a notice caution or other prescribed entry:

Provided that before a land charge including a local land charge affecting registered land (being a charge to secure money) is realised, it shall be registered and take effect as a registered charge under this Act in

the prescribed manner, without prejudice to the priority conferred by the land charge.

(3) A person interested under a writ or order for enforcing a judgment against registered land or a registered charge, may inspect and make copies of and extracts from the register and documents referred to therein which are in the custody of the registrar, so far as the same relate to the registered land or charge, and may, in accordance with this Act, lodge a caution against dealings therewith.

(4) When a land charge protected by notice has been discharged as to all or any part of the land comprised therein, the notices relating thereto and to all devolutions of and dealings therewith shall be vacated as to the registered land affected by the discharge.

(5) The foregoing provisions of this section shall apply only to writs and orders, deeds of arrangement, pending actions and land charges which if the land were unregistered would for purposes of protection be required to be registered or re-registered after the commencement of this Act under the Land Charges Act, 1925; and for the purposes of this section a land charge does not include a puisne mortgage or an Inland Revenue charge.

(6) Subject to the provisions of this Act relating to fraud and to the title of a trustee in bankruptcy, a purchaser acquiring title under a registered disposition, shall not be concerned with any pending action, writ, order, deed of arrangement, or other document, matter, or claim (not being an overriding interest) which is not protected by a caution or other entry on the register, whether he has or has not notice thereof, express, implied, or constructive.

(7) In this section references to registration under the Land Charges Act, 1925, apply to any registration made under any other statute which, in the case of unregistered land, is by the Land Charges Act, 1925, to have effect as if the registration had been made under that Act.

Notice of incumbrances registered under the Companies Act.

60.—(1) Where a company, registered under the Companies (Consolidation) Act, 1908, is registered as proprietor of any estate or charge already registered, the registrar shall not be concerned with any mortgage, charge, debenture, debenture stock, trust deed for securing the same, or other incumbrance created or issued by the company, whether or not registered under

that Act, unless the same is registered or protected by caution or otherwise under this Act.

8 Edw. 7. c. 69.

(2) No indemnity shall be payable under this Act by reason of a purchaser acquiring any interest under a registered disposition from the company free from any such incumbrance.

Protection of creditors prior to registration of trustee in bankruptcy.

61.—(1) The registrar shall as soon as practicable after registration of a petition in bankruptcy as a pending action under the Land Charges Act, 1925, register a notice (in this Act called a creditors' notice) against the title of any proprietor of any registered land or charge which appears to be affected, and such notice shall protect the rights of all creditors, and unless cancelled by the registrar in the prescribed manner such notice shall remain in force until a bankruptcy inhibition is registered or the trustee in bankruptcy is registered as proprietor.

No fee shall be charged for the registration of the notice.

(2) Until a creditors' notice is registered, a petition in bankruptcy filed after the commencement of this Act shall not, as respects any registered disposition for money or money's worth of any registered land or charge, be notice or evidence of any act of bankruptcy therein alleged.

(3) The registrar shall, as soon as practicable after registration of a receiving order in bankruptcy under the Land Charges Act, 1925, enter an inhibition (in this Act called a bankruptcy inhibition) against the title of any proprietor of any registered land or charge which appears to be affected.

No fee shall be charged for the registration of the inhibition.

(4) From and after the entry of a bankruptcy inhibition (but without prejudice to dealings with or in right of interests or charges having priority over the estate or charge of the bankrupt proprietor), no dealing affecting the registered land or charge of the proprietor, other than the registration of the trustee in bankruptcy, shall be entered on the register until the inhibition is vacated as to the whole or part of the land or charge dealt with.

(5) If and when a proprietor of any registered land or charge is adjudged bankrupt, his registered estate or interest, if belonging to him beneficially, and whether

acquired before or after the date of adjudication, shall vest in the trustee in bankruptcy in accordance with the statutory provisions relating to bankruptcy for the time being in force.

(6) Where under a disposition to a purchaser in good faith for money or money's worth such purchaser is registered as proprietor of an estate or a charge, then, notwithstanding that an available act of bankruptcy has been committed by the person making the disposition, the title of his trustee in bankruptcy acquired after the commencement of this Act shall, as from the date of such disposition, be void as against such purchaser unless at the date of such disposition, either a creditors' notice or a bankruptcy inhibition has been registered, but a purchaser who, at the date of the execution of the registered disposition, has notice of an available act of bankruptcy, or of the receiving order, or adjudication, shall not be deemed to take in good faith.

Nothing in this section shall impose on a purchaser a liability to make any search under the Land Charges Act, 1925.

(7) Where the estate or assets of a bankrupt proprietor suffer loss by reason of the omission of the registrar to register a creditors' notice or bankruptcy inhibition, as required by this section, or on account of the execution or registration of a disposition after a petition is registered as a pending action or after a receiving order is registered and before the registration of a creditors' notice or bankruptcy inhibition, the trustee in bankruptcy shall be entitled to indemnity as a person suffering loss by reason of an error or omission in the register.

(8) If neither a creditors' notice nor a bankruptcy inhibition is registered against a bankrupt proprietor, nothing in this section shall prejudicially affect a registered disposition of any registered land or charge acquired by the bankrupt after adjudication which would have been valid by virtue of section forty-seven of the Bankruptcy Act, 1914, if the land or charge had not been registered. 4 & 5 Geo. 5. c. 59.

(9) If and when a bankruptcy inhibition is wholly or partially vacated, for any cause other than by reason of the registration of the trustee in bankruptcy, any registered estate or interest vested in the trustee in bankruptcy shall, as respects the registered land or charge to which the vacation extends, be divested and the same

shall vest in the proprietor in whom it would have been vested if there had been no adjudication in bankruptcy.

(10) The official receiver or trustee in bankruptcy may inspect the register so far as it relates to any proprietor against whom a receiving order has been made, and any creditor, on behalf of himself and all other creditors, or the official receiver or trustee in bankruptcy, may lodge a caution against any such proprietor in respect of any minor interest affecting the registered land.

Rules to be made as to certain details.

62. Rules shall be made under this Act—

(*a*) For postponing the registration of a creditors' notice or bankruptcy inhibition, where the name, address and description of the debtor appearing in the application for the registration of the pending action or receiving order are not identical with those stated in the register, until the registrar is satisfied as to the identity of the debtor;

(*b*) For requiring the official receiver to notify to the registrar any mistake occurring in the receiving order or any other fact relevant to any proposed amendment in the register; and for enabling the registrar to make any consequential amendment;

(*c*) For providing for the whole or partial vacation (subject to notice to the official receiver or trustee in bankruptcy and to his right to appeal to the court) of a bankruptcy inhibition, where the receiving order is rescinded or the bankruptcy is annulled, or the registrar is satisfied that the bankruptcy proceedings do not affect or have ceased to affect the statutory powers of the bankrupt to deal with the registered land or charge.

PART V.

LAND AND CHARGE CERTIFICATES.

Issue of land and charge certificates.

63.—(1) On the first registration of a freehold or leasehold interest in land, and on the registration of a charge, a land certificate, or charge certificate, as the case may be, shall be prepared in the prescribed form: it shall state whether the title is absolute, good leasehold, qualified or possessory, and it shall be either delivered to the

proprietor or deposited in the registry as the proprietor may prefer.

(2) If so deposited in the registry it shall be officially endorsed from time to time, as in this Act provided, with notes of all subsequent entries in the register affecting the registered land or charge to which it relates.

(3) The proprietor may at any time apply for the delivery of the certificate to himself or to such person as he may direct, and may at any time again deposit it in the land registry.

(4) The preparation, issue, endorsement, and deposit in the registry of the certificate shall be effected without cost to the proprietor.

Certificates to be produced and noted on dealings.

64.—(1) So long as a land certificate or charge certificate is outstanding, it shall be produced to the registrar—

(*a*) on every entry in the register of a disposition by the proprietor of the registered land or charge to which it relates; and

(*b*) on every registered transmission; and

(*c*) in every case (except as hereinafter mentioned) where under this Act or otherwise notice of any estate right or claim or a restriction is entered or placed on the register, adversely affecting the title of the proprietor of the registered land or charge, but not in the case of the lodgment of a caution or of an inhibition or of a creditors' notice, or of the entry of a notice of a lease at a rent without taking a fine.

(2) A note of every such entry or transmission shall be officially entered on the certificate and the registrar shall have the same powers of compelling the production of certificates as are conferred on him by this Act as to the production of maps, surveys, books, and other documents.

(3) On the completion of the registration of a transferee or grantee of any registered land or charge the registrar shall deliver to him a land certificate or charge certificate, and where part only of the land is dealt with shall also deliver to the transferor or grantor a land certificate containing a description of the land retained by him.

(4) Where a transfer of land is made by the proprietor of a registered charge in exercise of any power vested in him, it may be registered, and a new land certificate may be issued to the purchaser, without production of the former land certificate (when not deposited at the registry), but the charge certificate, if any, must be produced or accounted for in accordance with this section.

The provisions of this subsection shall be extended in the prescribed manner to the cases of—

(*a*) an order for foreclosure absolute;

(*b*) a proprietor of a charge or a mortgagee obtaining a title to the land under the Limitation Acts;

(*c*) title being acquired under a title paramount to the registered estate, including a title acquired pursuant to a vesting or other order of the court or other competent authority.

Deposit at registry of certificate of mortgaged land.

65. Where a charge or mortgage (otherwise than by deposit) is registered, or is protected by a caution in a specially prescribed form, the land certificate shall be deposited at the registry until the charge or mortgage is cancelled.

Creation of liens by deposit of certificates.

66. The proprietor of any registered land or charge may, subject to the overriding interests, if any, to any entry to the contrary on the register, and to any estates, interests, charges, or rights registered or protected on the register at the date of the deposit, create a lien on the registered land or charge by deposit of the land certificate or charge certificate; and such lien shall, subject as aforesaid, be equivalent to a lien created in the case of unregistered land by the deposit of documents of title or of the mortgage deed by an owner entitled for his own benefit to the registered estate, or a mortgagee beneficially entitled to the mortgage, as the case may be.

Issue of new certificates.

67.—(1) The registrar may when a land certificate or charge certificate is produced to him grant a new land certificate or charge certificate in the place of the one produced.

(2) A new land certificate or charge certificate may be issued in place of one lost or destroyed, or in the possession of a person out of the jurisdiction of the

High Court, on such terms as to advertisement notice or delay as may be prescribed.

Certificates to be evidence.

68. Any land certificate or charge certificate shall be admissible as evidence of the several matters therein contained.

Part VI.

General Provisions as to Registration and the Effect thereof.

Effect of registration on the legal estate.

69.—(1) The proprietor of land (whether he was registered before or after the commencement of this Act) shall be deemed to have vested in him without any conveyance, where the registered land is freehold, the legal estate in fee simple in possession, and where the registered land is leasehold the legal term created by the registered lease, but subject to the overriding interests, if any, including any mortgage term or charge by way of legal mortgage created by or under the Law of Property Act, 1925, or this Act or otherwise which has priority to the registered estate.

(2) Where any legal estate or term left outstanding at the date of first registration (whether before or after the commencement of this Act), or disposed of or created under section forty-nine of the Land Transfer Act, 1875, before the commencement of this Act, becomes satisfied, or the proprietor of the land becomes entitled to require the same to be vested in or surrendered to him, and the entry, if any, for protecting the same on the register has been cancelled, the same shall thereupon, without any conveyance, vest in the proprietor of the land, as if the same had been conveyed or surrendered to him as the case may be.

38 & 39 Vict. c. 87.

(3) If and when any person is registered as first proprietor of land in a compulsory area after the commencement of this Act, the provisions of the Law of Property Act, 1925, for getting in legal estates shall apply to any legal estate in the land which was expressed to be conveyed or created in favour of a purchaser or lessee before the commencement of this Act but which failed to pass or to be created by reason of the omission of such purchaser or lessee to be registered as proprietor of the land under the Land Transfer Acts, 1875 and 1897, and shall operate to vest that legal estate in the person

so registered as proprietor on his registration, but subject to any mortgage term or charge by way of legal mortgage having priority thereto.

(4) The estate for the time being vested in the proprietor shall only be capable of being disposed of or dealt with by him in manner authorised by this Act.

(5) Nothing in this section operates to render valid a lease registered with possessory or good leasehold title.

Liability of registered land to overriding interests.

70.—(1) All registered land shall, unless under the provisions of this Act the contrary is expressed on the register, be deemed to be subject to such of the following overriding interests as may be for the time being subsisting in reference thereto, and such interests shall not be treated as incumbrances within the meaning of this Act, (that is to say) :—

(*a*) Rights of common, drainage rights, customary rights (until extinguished), public rights, profits à prendre, rights of sheepwalk, rights of way, watercourses, rights of water, and other easements not being equitable easements required to be protected by notice on the register;

(*b*) Liability to repair highways by reason of tenure, quit-rents, crown rents, heriots, and other rents and charges (until extinguished) having their origin in tenure;

(*c*) Liability to repair the chancel of any church;

(*d*) Liability in respect of embankments, and sea and river walls;

(*e*) Land tax, tithe rentcharge, payments in lieu of tithe, and charges or annuities payable for the redemption of tithe rentcharges;

(*f*) Subject to the provisions of this Act, rights acquired or in course of being acquired under the Limitation Acts;

(*g*) The rights of every person in actual occupation of the land or in receipt of the rents and profits thereof, save where enquiry is made of such person and the rights are not disclosed;

(*h*) In the case of a possessory, qualified, or good leasehold title, all estates, rights, interests, and powers excepted from the effect of registration;

(*i*) Rights under local land charges unless and until registered or protected on the register in the prescribed manner;

(*j*) Rights of fishing and sporting, seignorial and manorial rights of all descriptions (until extinguished), and franchises;

(*k*) Leases for any term or interest not exceeding twenty-one years, granted at a rent without taking a fine;

(*l*) In respect of land registered before the commencement of this Act, rights to mines and minerals, and rights of entry, search, and user, and other rights and reservations incidental to or required for the purpose of giving full effect to the enjoyment of rights to mines and minerals or of property in mines or minerals, being rights which, where the title was first registered before the first day of January, eighteen hundred and ninety-eight, were created before that date, and where the title was first registered after the thirty-first day of December, eighteen hundred and ninety-seven, were created before the date of first registration:

Provided that, where it is proved to the satisfaction of the registrar that any land registered or about to be registered is exempt from land tax, or tithe rentcharge or payments in lieu of tithe, or from charges or annuities payable for the redemption of tithe rentcharge, the registrar may notify the fact on the register in the prescribed manner.

(2) Where at the time of first registration any easement, right, privilege, or benefit created by an instrument and appearing on the title adversely affects the land, the registrar shall enter a note thereof on the register.

(3) Where the existence of any overriding interest mentioned in this section is proved to the satisfaction of the registrar or admitted, he may (subject to any prescribed exceptions) enter notice of the same or of a claim thereto on the register, but no claim to an easement, right, or privilege not created by an instrument shall be noted against the title to the servient land if the proprietor of such land (after the prescribed notice is given to him) shows sufficient cause to the contrary.

Dispositions by virtue of overriding interests.

71. Where by virtue of any interest or power which is an overriding interest a mortgagee or other person disposes of any estate, charge, or right in or upon a registered estate, and the disposition is capable of being registered, the registrar shall, if so required, give effect to the disposition on the register.

Appurtenances.

72. If before the registration of any freehold or leasehold interest in land with an absolute or good leasehold title any easement, right, or privilege has been acquired for the benefit thereof, then, on such registration, the easement, right, or privilege shall, subject to any entry to the contrary on the register, become appurtenant to the registered land in like manner as if it had been granted to the proprietor who is registered as aforesaid.

Provisions as to death duties.

73.—(1) A registered disposition in favour of a purchaser shall operate to vest in him the estate or interest transferred or created by the disposition free from all claims of His Majesty for death duties, notwithstanding that notice of a claim for duties may be noted on the register under this section.

(2) A disposition to any person, other than a purchaser, shall take effect subject to any charge for payment of death duties and the interest thereon, whether notice of a claim for the duties is entered on the register or not.

(3) A personal representative, in whom the registered estate vests on a death, shall be accountable for all death duties which may become leviable or payable on the death of the deceased in respect of the registered land or any interest therein.

(4) In every other case the proprietor of a registered estate (other than a purchaser who acquires a registered estate free from the charge for duties) shall be accountable for all the death duties which become leviable or payable in respect of that estate or of any minor interest capable of being overridden by a registered disposition made by him.

(5) A personal representative or other proprietor who disposes of any interest in registered land to a purchaser by a disposition which is registered or protected on the register, and the proceeds of sale, funds and other property, if any, derived from the disposition and the

income thereof, shall (subject as hereinafter provided) be and remain liable in respect of and stand charged with the payment of the duties the charge for which is overridden by the disposition, together with any interest payable in respect of the same.

(6) Notwithstanding that any duties may be payable by instalments, on a disposition of a registered estate by way of sale, exchange, or charge, all death duties payable in respect of the estate dealt with remaining unpaid, the charge for which is overridden by such disposition, shall immediately become payable and carry interest at the rate of four pounds per centum per annum from the date of the disposition:

Provided that, where by reason of this subsection an amount is paid or becomes payable for duties in excess of the amount which would have been payable if the duties had continued to be paid by instalments, such excess shall be repaid or allowed as a deduction by the Commissioners of Inland Revenue.

(7) Where on the death of a proprietor it appears to the registrar that a charge for death duties has arisen, the registrar shall enter notice of the charge on the register in the prescribed manner.

(8) When any such notice is entered, the registrar shall, before registering or entering notice of any disposition which would operate to override the charge for duties, give notice of the intended registration or entry to the said Commissioners, and cancel the notice of the claim for duties so far as it relates to the land or interest therein comprised in the disposition.

(9) When all claims for duties have been satisfied, or no such claims arise, or the said Commissioners are satisfied that the duties will be paid or commuted, they shall notify the fact to the registrar, who shall thereupon cancel the notice, if any, of the claim.

(10) For the purpose of raising the duty and the costs of raising the same, the personal representative or other proprietor accountable as aforesaid shall have all the powers which are by any statute conferred on any person for raising the duty.

(11) Notwithstanding that any duties are by this section made payable by the personal representative or proprietor of the land, nothing herein contained shall

affect the liability of the persons beneficially interested or of their minor interests in respect of any duty, and such persons shall accordingly account for or repay the same, and any interest and costs attributable thereto, to the said Commissioners or to the personal representative or other proprietor made accountable, and nothing in this section shall affect the remedies of the said Commissioners against any person other than a purchaser.

(12) Capital money liable to be laid out in the purchase of land to be settled in the same manner as the land in respect of which the duty became payable, and personal estate held on the same trusts as the proceeds of sale of land (in respect of which the duty became payable) held on trust for sale, may, by the direction of the person accountable, and although the duty is only payable in respect of a minor interest which is or is capable of being overridden by a disposition to a purchaser, be applied in discharging all or any of the duties and costs aforesaid.

(13) Where the duties would not, except by virtue of the last subsection, be payable out of capital money, the amount so paid shall be repaid by the person liable for the duty to the trustees of the settlement or trustees for sale, by the like instalments and at the like rate of interest by and at which the unpaid duty and the interest thereon might have been paid if the land had not been disposed of, and the minor or other interests of the persons liable and remaining subject to the settlement of the land or of the proceeds of the sale, shall stand charged with the repayment of the instalments and interest aforesaid; and the trustees of the settlement or the trustees for sale shall be entitled to recover and receive any excess of duty which may become repayable by the said Commissioners.

(14) Nothing in this section shall impose on a personal representative, trustee, or other person in a fiduciary position, as such, any liability for payment of duty in excess of the assets (including real estate) vested in him or in the trustees of the settlement which may for the time being be available in his or their hands for the payment of the duty, or which would have been so available but for his or their own neglect or default, or impose on the proprietor of a registered charge any liability to discharge death duties unless the claim was paramount to his charge.

(15) In this section "purchaser" includes only a purchaser for money or money's worth.

(16) This section only applies to death duties which become payable or leviable after the commencement of this Act.

With respect to death duties which become payable or leviable before that date section thirteen of the Land Transfer Act, 1897, and all the other provisions of the Land Transfer Acts, 1875 and 1897, relating to death duties shall, notwithstanding any repeal, continue to apply. 60 & 61 Vict. c. 65.

Notice of trust not to affect registered dealing.

74. Subject to the provisions of this Act as to settled land, neither the registrar nor any person dealing with a registered estate or charge shall be affected with notice of a trust express implied or constructive, and references to trusts shall, so far as possible, be excluded from the register.

Acquisition of title by possession.

75.—(1) The Limitation Acts shall apply to registered land in the same manner and to the same extent as those Acts apply to land not registered, except that where, if the land were not registered, the estate of the person registered as proprietor would be extinguished, such estate shall not be extinguished but shall be deemed to be held by the proprietor for the time being in trust for the person who, by virtue of the said Acts, has acquired title against any proprietor, but without prejudice to the estates and interests of any other person interested in the land whose estate or interest is not extinguished by those Acts.

(2) Any person claiming to have acquired a title under the Limitation Acts to a registered estate in the land may apply to be registered as proprietor thereof.

(3) The registrar shall, on being satisfied as to the applicant's title, enter the applicant as proprietor either with absolute, good leasehold, qualified, or possessory title, as the case may require, but without prejudice to any estate or interest protected by any entry on the register which may not have been extinguished under the Limitation Acts, and such registration shall, subject as aforesaid, have the same effect as the registration of a first proprietor; but the proprietor or the applicant or any other person interested may apply to the court for the determination of any question arising under this section.

(4) If, in the opinion of the registrar, any purchaser or person deriving title under him whose title, being registered or protected on the register, is prejudicially affected by any entry under this section, ought, in the special circumstances of the case, to be compensated, the registrar may award to him indemnity of such amount as he may consider just, in like manner as if such purchaser or person had suffered loss by the rectification of the register:

Provided that no sum shall be payable for indemnity under this section, unless that sum can be paid out of the indemnity fund without recourse to the Consolidated Fund.

(5) Rules may be made for applying (subject to any necessary modifications) the provisions of this section to cases where an easement, right or privilege has been acquired by prescription.

Description of registered land.

76. Registered land may be described—

(*a*) by means of a verbal description and a filed plan or general map, based on the ordnance map; or

(*b*) by reference to a deed or other document, a copy or extract whereof is filed at the registry, containing a sufficient description, and a plan or map thereof; or

(*c*) otherwise as the applicant for registration may desire, and the registrar, or, if the applicant prefers, the court, may approve,

regard being had to ready identification of parcels, correct descriptions of boundaries, and, so far as may be, uniformity of practice; but the boundaries of all freehold land and all requisite details in relation to the same, shall whenever practicable, be entered on the register or filed plan, or general map, and the filed plan, if any, or general map shall be used for assisting the identification of the land.

Conversion of possessory into absolute or good leasehold title.

77.—(1) Where land has been registered with a possessory title before the commencement of this Act, and the registrar is satisfied as to the title, he may register it at any time as absolute or good leasehold, whether the proprietor consents to such registration or not, but, unless the registration is made at the request of the proprietor, without charging any fee therefor.

(2) Where the registrar is satisfied as to the title he may, on a transfer for valuable consideration of land registered with a qualified, good leasehold or possessory title, enter the title of a transferee or grantee as absolute or good leasehold, as the case may require or admit, whether the transferee or grantee consents or not, but in that case no additional fee shall be charged.

(3) The following provisions shall apply with respect to land registered with a qualified or possessory title:—

(*a*) Where the title registered is possessory, the application for the registration of a transfer for valuable consideration shall, subject to any provisions to the contrary which may be prescribed, be accompanied by all the documents of or relating to the title (including contracts, abstracts, counsel's opinions, requisitions and replies, and other like documents), in the applicant's possession or under his control; and where the title registered is qualified, such application shall be accompanied by such documents, if any, as may relate to the matters excepted from the effect of registration;

(*b*) Where the land has been registered, if freehold land, for fifteen years, or if leasehold land, for ten years, with a possessory title, the registrar shall, if satisfied that the proprietor is in possession, and after giving such notices, if any, as may be prescribed, enter the title of the proprietor of the freehold land as absolute, and the title of the proprietor of the leasehold land as good leasehold, save that if the date of first registration occurred before the first day of January, nineteen hundred and nine, the registrar shall have power to postpone the registration of an absolute or good leasehold title until, after investigation, he is satisfied in regard to the title.

(4) Where the land has been registered with a good leasehold title for at least ten years, the registrar may, subject to the payment of any additional insurance fee and to any advertisements or inquiries which may be prescribed, and if he is satisfied that the proprietor or successive proprietors has or have been in possession

during the said period, at the request of the proprietor enter his title as absolute.

(5) If any claim adverse to the title of the proprietor has been made, an entry shall not be made on the register under this section unless and until the claim has been disposed of.

(6) Any person, other than the proprietor, who suffers loss by reason of any entry on the register made by virtue of this section shall be entitled to be indemnified under this Act as if a mistake had been made in the register.

Provisions as to undivided shares in land.

78.—(1) Where in the case of land belonging to persons in undivided shares the entirety of the land is registered at the commencement of this Act, and the persons entitled to the several undivided shares are registered as proprietors, the registrar shall, on the occasion of the first dealing affecting the title after the commencement of this Act, rectify the register by entering as the proprietors of the entirety of the land the persons in whom the legal estate therein has become vested by virtue of the Law of Property Act, 1925, and it shall be the duty of the persons registered as the proprietors of the undivided shares in the land to furnish to the registrar such evidence as he may require to enable him to ascertain the persons in whom such legal estate has become so vested as aforesaid.

(2) Where at the commencement of this Act the title to an undivided share in land is registered but the entirety of the land is not registered, the registrar may, at any time, after giving notice to the proprietor and to the other persons, if any, who appear by the register to be interested therein, remove from the register the title to the undivided share, and such removal shall have the like effect as if it had been effected by the proprietor with the assent of such other persons as aforesaid in pursuance of the power in that behalf contained in this Act:

Provided that, if within one year from the commencement of this Act or such extended time as the registrar may allow, and before the removal of the undivided share from the register in manner aforesaid, the persons in whom the legal estate of the entirety of the land is vested by virtue of the Law of Property Act, 1925, or any persons interested in more than an

undivided half of the land or the income thereof, make an application in the prescribed manner for the purpose and furnish the prescribed evidence, the registrar shall, without charging any fee, register the persons in whom such legal estate is so vested as proprietors of that estate, subject to any incumbrance capable of registration affecting the entirety of the land, but free from any charge or incumbrance (whether formerly registered or not) affecting an undivided share, and when the title to the entirety of the land is so registered, the title to the undivided share shall be closed.

(3) If the person in whom the legal estate in the entirety of the land is so vested is the Public Trustee, he shall not be registered as proprietor pursuant to this section unless and until he has been duly requested to act in accordance with the Law of Property Act, 1925, and has accepted the trust.

(4) After the commencement of this Act, no entry other than a caution against dealings with the entirety shall be made in the register as respects the title to an undivided share in land.

Addresses for service and notices.

79.—(1) Every person whose name is entered on the register as proprietor of any registered land or charge, or as cautioner, or as entitled to receive any notice, or in any other character shall furnish to the registrar a place of address in the United Kingdom.

(2) Every notice by this Act required to be given to any person shall be served personally, or sent through the post in a registered letter marked outside "His Majesty's Land Registry," and directed to such person at the address furnished to the registrar, and, unless returned, shall be deemed to have been received by the person addressed within such period, not less than seven days, exclusive of the day of posting, as may be prescribed.

(3) The Postmaster-General shall give directions for the immediate return to the registrar of all letters marked as aforesaid, and addressed to any person who cannot be found, and on the return of any letter containing any notice, the registrar shall act in the matter requiring such notice to be given in such manner as may be prescribed.

(4) A purchaser shall not be affected by the omission to send any notice by this Act directed to be given or by the non-receipt thereof.

Bona vacantia and forfeiture.

80. Subject to the express provisions of this Act relating to the effect of first registration of title and the effect of registration of a disposition for valuable consideration, nothing in this Act affects any right of His Majesty to any bona vacantia or forfeiture.

Power to remove land from the register.

81.—(1) The proprietor of registered land not situated in an area where the registration of title is compulsory, and, in every case where the entirety of the land is not registered, the proprietor of an undivided share in land, may, with the consent of the other persons (if any) for the time being appearing by the register to be interested therein, and on delivering up the land certificate and, if the land is subject to any registered charges, the charge certificates, remove the land (including an undivided share) from the register.

(2) After land is removed from the register no further entries shall be made respecting it, and inspection of the register may be made and office copies of the entries therein may be issued, subject to such regulations as may be prescribed.

(3) If the land so removed from the register is situated within the jurisdiction of the Middlesex or Yorkshire registries, it shall again be subject to such jurisdiction as from the date of the removal.

PART VII.

RECTIFICATION OF REGISTER AND INDEMNITY.

Rectification of the register.

82.—(1) The register may be rectified pursuant to an order of the court or by the registrar, subject to an appeal to the court, in any of the following cases, but subject to the provisions of this section :—

(*a*) Subject to any express provisions of this Act to the contrary, where a court of competent jurisdiction has decided that any person is entitled to any estate right or interest in or to any registered land or charge, and as a consequence of such decision such court is of opinion that a rectification of the register is required, and makes an order to that effect ;

(*b*) Subject to any express provision of this Act to the contrary, where the court, on the application in the prescribed manner of any person who is

aggrieved by any entry made in, or by the omission of any entry from, the register, or by any default being made, or unnecessary delay taking place, in the making of any entry in the register, makes an order for the rectification of the register;

(*c*) In any case and at any time with the consent of all persons interested;

(*d*) Where the court or the registrar is satisfied that any entry in the register has been obtained by fraud;

(*e*) Where two or more persons are, by mistake, registered as proprietors of the same registered estate or of the same charge;

(*f*) Where a mortgagee has been registered as proprietor of the land instead of as proprietor of a charge and a right of redemption is subsisting;

(*g*) Where a legal estate has been registered in the name of a person who if the land had not been registered would not have been the estate owner; and

(*h*) In any other case where, by reason of any error or omission in the register, or by reason of any entry made under a mistake, it may be deemed just to rectify the register.

(2) The register may be rectified under this section, notwithstanding that the rectification may affect any estates, rights, charges, or interests acquired or protected by registration, or by any entry on the register, or otherwise.

(3) The register shall not be rectified, except for the purpose of giving effect to an overriding interest, so as to affect the title of the proprietor who is in possession—

(*a*) unless such proprietor is a party or privy or has caused or substantially contributed, by his act, neglect or default, to the fraud, mistake or omission in consequence of which such rectification is sought; or

(*b*) unless the immediate disposition to him was void, or the disposition to any person through

whom he claims otherwise than for valuable consideration was void; or

(*c*) unless for any other reason, in any particular case, it is considered that it would be unjust not to rectify the register against him.

(4) Where a person is in possession of registered land in right of a minor interest, he shall, for the purposes of this section, be deemed to be in possession as agent for the proprietor.

(5) The registrar shall obey the order of any competent court in relation to any registered land on being served with the order or an official copy thereof.

(6) On every rectification of the register the land certificate and any charge certificate which may be affected shall be produced to the registrar unless an order to the contrary is made by him.

Right to indemnity in certain cases.

83.—(1) Subject to the provisions of this Act to the contrary, any person suffering loss by reason of any rectification of the register under this Act shall be entitled to be indemnified.

(2) Where an error or omission has occurred in the register, but the register is not rectified, any person suffering loss by reason of such error or omission, shall, subject to the provisions of this Act, be entitled to be indemnified.

(3) Where any person suffers loss by reason of the loss or destruction of any document lodged at the registry for inspection or safe custody or by reason of an error in any official search, he shall be entitled to be indemnified under this Act.

(4) Subject as hereinafter provided, a proprietor of any registered land or charge claiming in good faith under a forged disposition shall, where the register is rectified, be deemed to have suffered loss by reason of such rectification and shall be entitled to be indemnified under this Act.

(5) No indemnity shall be payable under this Act in any of the following cases:—

(*a*) Where the applicant has himself caused or substantially contributed to the loss by his fraud, or derives title (otherwise than under a disposition for valuable consideration which is

registered or protected on the register) from a person so committing fraud;

(*b*) On account of any mines or minerals or of the existence of any rights to work or get mines or minerals, unless a note is entered on the register that the mines or minerals are included in the registered title;

(*c*) On account of costs incurred in taking or defending any legal proceedings without the consent of the registrar.

(6) Where an indemnity is paid in respect of the loss of an estate or interest in or charge on land the amount so paid shall not exceed—

(*a*) Where the register is not rectified, the value of the estate, interest or charge at the time when the error or omission which caused the loss was made;

(*b*) Where the register is rectified, the value (if there had been no rectification) of the estate, interest or charge, immediately before the time of rectification.

(7) The registrar may, if the applicant desires it, and subject to an appeal to the court, determine whether a right to indemnity has arisen under this section, and, if so, award indemnity. In the event of an appeal to the court the applicant shall not be required to pay any costs except his own, even if unsuccessful, unless the court considers that the appeal is unreasonable.

(8) In granting any indemnity the registrar may have regard to any costs and expenses properly incurred in relation to the matter, and may add the same to the amount of the indemnity money which would otherwise be payable.

(9) Where indemnity is paid for a loss, the registrar, on behalf of the Crown, shall be entitled to recover the amount paid from any person who has caused or substantially contributed to the loss by his fraud.

(10) The registrar shall be entitled to enforce, on behalf of the Crown, any express or implied covenant or other right which the person who is indemnified would have been entitled to enforce in relation to the matter in respect of which indemnity has been paid.

(11) A liability to pay indemnity under this Act shall be deemed a simple contract debt; and for the purposes of the Limitation Act, 1623, the cause of action shall be deemed to arise at the time when the claimant knows, or but for his own default might have known, of the existence of his claim:

21 Jac. I. c. 16.

Provided that, when a claim to indemnity arises in consequence of the registration of an estate in land with an absolute or good leasehold title, the claim shall be enforceable only if made within six years from the date of such registration, except in the following cases:—

(*a*) Where at the date of registration the person interested is an infant, the claim by him may be made within six years from the time he attains full age;

(*b*) In the case of settled land, or land held on trust for sale, a claim by a person interested in remainder or reversion, may be made within six years from the time when his interest falls into possession;

(*c*) Where a claim arises in respect of a restrictive covenant or agreement affecting freehold land which by reason of notice or the registration of a land charge or otherwise was binding on the first proprietor at the time of first registration, the claim shall only be enforceable within six years from the breach of the covenant or agreement;

(*d*) Where any person interested is entitled as a proprietor of a charge or as a mortgagee protected by a caution in the specially prescribed form, the claim by him may be made within six years from the last payment in respect of principal or interest.

(12) This section applies to the Crown in like manner as it applies to a private person.

Application of indemnity in case of settled land.

84. Where any indemnity is paid in respect of settled land, and not in respect of any particular estate, remainder, or reversion therein, the money shall be paid to the trustees of the settlement and held by them as capital money for the purposes of the Settled Land Act, 1925, arising from the settled land.

Insurance fund for providing indemnity.

85.—(1) Any indemnity payable by reason of the rectification or non-rectification of the register shall be paid out of the insurance fund established under the Land Transfer Act, 1897.

(2) There shall be set aside and paid into the said fund at the end of each financial year such portion of the receipts from fees taken in the land registry under this Act as the Lord Chancellor and the Treasury may by order determine.

(3) The insurance fund shall be invested in such names and manner as the Treasury from time to time direct.

(4) If the insurance fund is at any time insufficient to pay indemnity for any loss chargeable thereon, the deficiency shall (except where otherwise expressly provided by this Act) be charged on and paid out of the Consolidated Fund, or the growing produce thereof, but any sum so paid out of the Consolidated Fund, or the growing produce thereof, shall be repaid out of the money subsequently standing to the credit of the insurance fund.

(5) Accounts of the fund shall be kept and be audited as public accounts, in accordance with such regulations as the Treasury from time to time make.

Part VIII.

Application to particular Classes of Land.

Registration of settled land.

86.—(1) Settled land shall be registered in the name of the tenant for life or statutory owner.

(2) The successive or other interests created by or arising under a settlement shall (save as regards any legal estate which cannot be overridden under the powers of the Settled Land Act, 1925, or any other statute) take effect as minor interests and not otherwise; and effect shall be given thereto by the proprietor of the settled land as provided by statute with respect to the estate owner, with such adaptations, if any, as may be prescribed in the case of registered land by rules made under this Act.

(3) There shall also be entered on the register such restrictions as may be prescribed, or may be expedient, for the protection of the rights of the persons beneficially

interested in the land, and such restrictions shall (subject to the provisions of this Act relating to releases by the trustees of a settlement and to transfers by a tenant for life whose estate has ceased in his lifetime) be binding on the proprietor during his life, but shall not restrain or otherwise affect a disposition by his personal representative.

(4) Where land already registered is acquired with capital money, the same shall be transferred by a transfer in a specially prescribed form to the tenant for life or statutory owner, and such transfer shall state the names of the persons who are trustees of the settlement for the purposes of the Settled Land Act, 1925, and contain an application to register the prescribed restrictions applicable to the case; a transfer made in the specially prescribed form shall be deemed to comply with the requirements of that Act, respecting vesting deeds; and where no capital money is paid but land already registered is to be made subject to a settlement, it shall not be necessary for the trustees of the settlement to concur in the transfer.

(5) References in this Act to the "tenant for life" shall, where the context admits, be read as referring to the tenant for life, statutory owner, or personal representative who is entitled to be registered.

Changes of ownership of settled land.

87.—(1) On the death of a proprietor, or of the survivor of two or more joint proprietors of settled land (whether the land is settled by his will or by an instrument taking effect on or previously to his death), his personal representative shall hold the settled land subject to payment or to making provision for payment of all death duties and other liabilities affecting the land, and having priority to the settlement, upon trust to transfer the same by an assent in the prescribed manner to the tenant for life or statutory owner, and in the meantime upon trust to give effect to the minor interests under the settlement; but a transfer shall not be made to an infant.

(2) Rules may be made—

(*a*) for enabling a personal representative or proprietor in proper cases to create legal estates by registered dispositions for giving effect to or creating interests in priority to the settlements;

(*b*) to provide for the cases in which application shall be made by the personal representative or proprietor for the registration of restrictions or notices; and

(*c*) for discharging a personal representative or former proprietor who has complied with the requirements of this Act and rules from all liability in respect of minor interests under a settlement.

(3) Where a tenant for life or statutory owner who, if the land were not registered, would be entitled to have the settled land vested in him, is not the proprietor, the proprietor shall (notwithstanding any stipulation or provision to the contrary) be bound at the cost of the trust estate to execute such transfers as may be required for giving effect on the register to the rights of such tenant for life or statutory owner.

(4) Where the trustees of a settlement have in the prescribed manner released the land from the minor interests under such settlement, the registrar shall be entitled to assume that the settlement has determined, and the restrictions for protecting the minor interests thereunder shall be cancelled.

(5) Where an order is made under the Settled Land Act, 1925, authorising the trustees of the settlement to exercise the powers on behalf of a tenant for life who is registered as proprietor, they may in his name and on his behalf do all such acts and things under this Act as may be requisite for giving effect on the register to the powers authorised to be exercised in like manner as if they were registered as proprietors of the land, but a copy of the order shall be filed at the registry before any such powers are exercised.

(6) Where a proprietor ceases in his lifetime to be a tenant for life, he shall transfer the land to his successor in title, or, if such successor is an infant, to the statutory owner, and on the registration of such successor in title or statutory owner it shall be the duty of the trustees of the settlement, if the same be still subsisting, to apply for such alteration, if any, in the restrictions as may be required for the protection of the minor interests under the settlement.

Settlement may be filed in registry.

88.—(1) The settlement, or an abstract or copy thereof, may be filed in the registry for reference in the prescribed manner, but such filing shall not affect a purchaser from the proprietor with notice of its provisions, or entitle him to call for production of the settlement, or for any information or evidence as to its contents.

(2) In this section "settlement" includes any deed stating who are the trustees of the settlement, and the vesting instrument, and any transfer or assent in the prescribed form taking the place, in the case of registered land, of a vesting instrument, as well as the trust instrument and any other instruments creating the settlement.

Registrar's certificate authorising proposed dealing with settled land.

89. The registrar may, notwithstanding any restriction entered on the register, grant a certificate that an intended registered disposition is authorised by a settlement or otherwise, and will be registered, and a purchaser who obtains such a certificate shall not be concerned to see that the disposition is authorised, but where capital money is paid to the persons to whom the same is required to be paid by a restriction or into court no such certificate shall be required.

Charges for money actually raised.

90. The proprietor of settled land which is registered and all other necessary parties, if any, shall, on the request, and at the expense of any person entitled to an estate, interest, or charge conveyed or created for securing money actually raised at the date of such request, charge the land in the prescribed manner with the payment of the money so raised, but so long as the estate, interest or charge is capable of being overridden under the Settled Land Act, 1925, or the Law of Property Act, 1925, no charge shall be created or registered under this section.

Minorities.

91. The following provisions shall have effect as respects settled land (being registered land) during a minority:—

(1) The personal representatives under the will or intestacy under which the settlement is created or arises shall, during the minority, be registered as proprietors, and in reference to the settled land shall have all the powers conferred by the Settled Land Act, 1925, on a tenant for life and on the trustees of the settlement; but if

and when the personal representatives would, if the infant had been of full age, have been bound to transfer the registered land to him, the personal representatives shall (unless themselves the statutory owners) thenceforth during the minority give effect on the register to the directions of the statutory owner, and shall apply for the registration of any restriction which may be prescribed, but shall not be concerned with the propriety of any registered disposition so directed to be made if the same appears to be a proper disposition under the powers of the statutory owner and the capital money, if any, arising under the disposition is paid to the trustees of the settlement or into court; but a purchaser dealing with the personal representatives, who complies with the restrictions, if any, which may be entered on the register, shall not be concerned to see or inquire whether any such directions have been given:

(2) If an infant becomes entitled in possession (or will become entitled in possession on attaining full age) to registered land otherwise than on a death, the statutory owners during the minority shall be entitled to require the settled land to be transferred to them and shall be registered as proprietors accordingly:

(3) If and when the registered land would (if not registered) have become vested in the trustees of the settlement pursuant to the Law of Property Act, 1925, such trustees shall (unless they are already registered) be entitled to be registered as proprietors thereof, and shall in the prescribed manner apply for registration accordingly, and no fee shall be charged in respect of such registration or consequential alteration in the register.

Rights of tenants for life and statutory owners to be registered as proprietors.

92. The foregoing provisions of this Part of this Act relating to settled land apply in every case where pursuant to the Settled Land Act, 1925, settled land is to be vested in a tenant for life or statutory owner whether the estate was registered before or after the commencement of this Act, and the proprietor of settled land (not being the tenant for life or

statutory owner entitled to the same) shall be bound to make such dispositions as may be required for giving effect to the rights of the tenant for life or statutory owner:

Provided that, where the registered land is not, at the commencement of this Act, registered in the name of a tenant for life or statutory owner, or personal representative who, if the land were not registered, would by virtue of the Settled Land Act, 1925, or of the Law of Property Act, 1925, be entitled to have the settled land vested in him, any such person shall (without any transfer) be entitled to be registered as proprietor thereof, and shall in the prescribed manner apply for registration accordingly, and no fee shall be charged in respect of such registration or consequential alteration in the register.

As to persons in a fiduciary position.

93. A person in a fiduciary position may apply for, or concur in, or assent to, any registration authorised by the provisions of this Act, and, if he is a proprietor, may execute a charge or other disposition in favour of any person whose registration is so authorised.

Land held on trust for sale.

94.—(1) Where registered land is subject to a trust for sale, express or implied, whether or not there is power to postpone the sale, the land shall be registered in the names of the trustees for sale.

(2) Where an order, obtained under section seven of the Settled Land Act, 1884, is in force at the commencement of this Act, the person authorised by the order to exercise any of the powers conferred by the Settled Land Act, 1925, may, in the names and on behalf of the proprietors, do all such acts and things under this Act as may be requisite for giving effect on the register to the powers authorised to be exercised in like manner as if such person were registered as proprietor of the land, and a copy of the order shall be filed at the registry.

(3) Where, by virtue of any statute, registered land is made subject to a trust for sale, the trustees for sale (unless already registered) shall be registered as proprietors thereof, and shall in the prescribed manner apply for registration accordingly, and no fee shall be charged in respect of such registration or consequential alteration of the register, but this subsection has effect subject to the provisions of this Act

relating to the registration of the Public Trustee and the removal of an undivided share from the register before the title to the entirety of the land is registered.

Restriction on number of trustees.

95. The statutory restrictions affecting the number of persons entitled to hold land on trust for sale and the number of trustees of a settlement apply to registered land.

Crown and Duchy land.

96.—(1) With respect to land or any estate, right, or interest in land vested in His Majesty, either in right of the Crown or of the Duchy of Lancaster, or otherwise, or vested in any public officer or body in trust for the public service, the public officer or body having the management thereof, if any, or, if none, then such person as His Majesty may by writing under his sign manual appoint, may represent the owner of such land, estate, right, or interest for all the purposes of this Act, and shall be entitled to such notices, and may make and enter any such application or cautions, and do all such other acts as any owner of land, or of any estate, right, or interest therein, as the case may be, is entitled to receive, make, enter, or do under this Act.

(2) With respect to land or any estate, right, or interest in land belonging to the Duchy of Cornwall, such person as the Duke of Cornwall for the time being, or as the person for the time being entitled to the revenues and possessions of the Duchy of Cornwall, may in writing appoint, may act as and represent the owner of such land, estate, right, or interest for all the purposes of this Act, and shall be entitled to receive such notices, and may make and enter any such application or cautions, and do all such other acts as any owner of land or of any estate, right, or interest in land (as the case may be) is entitled to make, enter, or do under this Act.

Foreshore.

97.—(1) If it appears to the registrar that any land, application for registration whereof is made to him, comprises foreshore, he shall not register an estate in the land unless and until he is satisfied that at least one month's notice in writing of the application has been given to the Board of Trade, and—

(*a*) in case of land in the county palatine of Lancaster, also to the proper officer of the Duchy of Lancaster; and

(*b*) in case of land in the counties of Cornwall or Devon, also to the proper officer of the Duke of Cornwall; and

(*c*) in the case of land within the jurisdiction of the Port of London Authority, also to that authority; and

(*d*) in all other cases, also to the Commissioners of Woods.

(2) This section does not apply to the registration of an estate with a possessory title or with a good leasehold title.

Land subject to charitable trusts.

98. Where an application is made to register a legal estate in land subject to charitable trusts and that estate is vested in the official trustee of charity lands, he shall, notwithstanding that the powers of disposition are vested in the managing trustees or committee, be registered as proprietor thereof.

Land belonging to benefices.

99.—(1) Where the incumbent of a benefice and his successors are the registered proprietors of land—

(i) No disposition thereof shall be registered unless a certificate in the prescribed form has been obtained—

1 & 2 Vict. c. 23. 2 & 3 Vict. c. 49.

(*a*) in case of sales under the Parsonages Act, 1838, or the Church Building Act, 1839, or any Acts amending or extending the same respectively, from Queen Anne's Bounty; or

51 & 52 Vict. c. 20.

(*b*) in case of sales under the Glebe Lands Act, 1888, or any Acts amending or extending the same, from the Minister of Agriculture and Fisheries; or

(*c*) in any other case from the Ecclesiastical Commissioners;

(ii) No lien shall be created by deposit of the land certificate, and an inhibition shall be placed on the register and on the land certificate accordingly.

The production of a certificate from any of the above-mentioned bodies shall be a sufficient authority to the registrar to register the disposition in question, and it shall be the duty of the proper body to grant such certificate in all cases in which the facts admit thereof.

(2) On the registration of the incumbent of a benefice and his successors as the proprietors of a legal

estate in land, if it is certified by Queen Anne's Bounty, or otherwise appears, that the land was originally purchased by Queen Anne's Bounty or was otherwise appropriated or annexed by or with the consent or the concurrence of Queen Anne's Bounty to the benefice for the augmentation thereof, the registrar shall enter a note to that effect on the register.

(3) Where the incumbent of a benefice is entitled to indemnity under the provisions of this Act, the money shall be paid to Queen Anne's Bounty and appropriated by them to the benefice.

(4) "Benefice" in this section includes all rectories with cure of souls, vicarages, perpetual curacies, donatives, endowed public chapels and parochial chapelries, and chapelries or districts belonging, or reputed to belong, or annexed, or reputed to be annexed, to any church or chapel.

Small holdings. 8 Edw. 7. c. 36.

100.—(1) Where a county council apply in pursuance of the Small Holdings and Allotments Act, 1908, for registration as proprietors, they may be registered as proprietors with any such title as is authorised by this Act.

(2) Where a county council, after having been so registered, dispose of any interest in the land for the purposes of a small holding to a purchaser or lessee, he shall be registered as proprietor of the interest transferred or created (being an interest capable of registration) with an absolute title, subject only to such incumbrances as may be created under the Small Holdings and Allotments Act, 1908, but freed from all other liabilities not being overriding interests, and in any such case the remedy of any person claiming by title paramount to the county council in respect either of title or incumbrances shall be in damages only, and such damages shall be recoverable against the county council.

(3) Where under the powers conferred by subsection (4) of section twelve of the said Act, a county council by notice require registered land to be sold to themselves, the council shall, after such date as may be specified by the notice mentioned in that subsection and on production to the registrar of evidence—

(*a*) of service of such notice; and

(*b*) of the payment of the sum agreed or determined in manner provided by that subsection or of the tender of such payment

be registered as the proprietors of the land in place of the proprietor, and such registration shall operate as a registration on a transfer for valuable consideration under this Act.

(4) Rules under this Act may—

(*a*) adapt this Act to the registration of small holdings with such modifications as appear to be required; and

(*b*) on the application and at the expense of a county council provide by the appointment of local agents or otherwise for the carrying into effect of the objects of this section; and

(*c*) enable the registrar to obtain production of the land certificate.

(5) For the purposes of this section "county council" includes "county borough council."

PART IX.

UNREGISTERED DEALINGS WITH REGISTERED LAND.

Powers of dealing with Registered Land off the Register.

Dispositions off register creating "minor interests."

101.—(1) Any person, whether being the proprietor or not, having a sufficient interest or power in or over registered land, may dispose of or deal with the same, and create any interests or rights therein which are permissible in like manner and by the like modes of assurance in all respects as if the land were not registered, but subject as provided by this section.

(2) All interests and rights disposed of or created under subsection (1) of this section (whether by the proprietor or any other person) shall, subject to the provisions of this section, take effect as minor interests, and be capable of being overridden by registered dispositions for valuable consideration.

(3) Minor interests shall, subject to the express exceptions contained in this section, take effect only in equity, but may be protected by entry on the register of such notices, cautions, inhibitions and restrictions as are provided for by this Act or rules.

(4) A minor interest in registered land subsisting or capable of taking effect at the commencement of this Act, shall not fail or become invalid by reason of the same

being converted into an equitable interest; but after such commencement a minor interest in registered land shall only be capable of being validly created in any case in which an equivalent equitable interest could have been validly created if the land had not been registered.

(5) Where after the commencement of this Act, the proprietor of the registered estate which is settled, disposes of or deals with his beneficial interest in possession in favour of a purchaser, and accordingly the minor interest disposed of or created would, but for the restrictions imposed by the Law of Property Act, 1925, and this section, on the creation of legal estates, have been a legal estate, the purchaser (subject as provided by the next following section in regard to priorities) may exercise all such rights and remedies as he might have exercised had the minor interest been a legal estate, and the reversion (if any) on any leases or tenancies derived out of the registered estate had been vested in him.

(6) A minor interest created under this section does not operate to prevent a registered estate passing to the personal representative of a deceased proprietor, or to the survivor or survivors of two or more joint proprietors, nor does this section affect the right of any person entitled to an overriding interest, or having any power to dispose of or create an overriding interest, to dispose of or create the same.

Priorities as between minor interests.

102.—(1) If a minor interest subsisting or capable of taking effect at the commencement of this Act, would, if the Law of Property Acts, 1922 and 1925, and this Act had not been passed have taken effect as a legal estate, then (subject and without prejudice to the estate and powers of the proprietor whose estate is affected) the conversion thereof into an equitable interest shall not affect its priority over other minor interests.

(2) Priorities as regards dealings effected after the commencement of this Act between assignees and incumbrancers of life interests, remainders, reversions and executory interests shall be regulated by the order of the priority cautions or inhibitions lodged (in a specially prescribed form) against the proprietor of the registered estate affected, but, save as aforesaid, priorities as

between persons interested in minor interests shall not be affected by the lodgment of cautions or inhibitions.

(3) The lodgment of a priority caution or inhibition shall not affect the powers of the proprietor whose estate is affected by the minor interest.

Obligation to give effect on the register to certain minor interests.

103.—(1) Where by the operation of any statute or statutory or other power, or by virtue of any vesting order of any court or other competent authority, or an order appointing a person to convey, or of a vesting declaration (express or implied) or of an appointment or other assurance, a minor interest in the registered land is disposed of or created which would, if registered, be capable of taking effect as a legal estate or charge by way of legal mortgage, then—

(i) if the estate owner would, had the land not been registered, have been bound to give effect thereto by conveying or creating a legal estate or charge by way of legal mortgage, the proprietor shall, subject to proper provision being made for payment of costs, be bound to give legal effect to the transaction by a registered disposition :

(ii) if the proprietor is unable or refuses to make the requisite disposition or cannot be found, or if for any other reason a disposition by him cannot be obtained within a reasonable time, or if, had the land not been registered, no conveyance by the estate owner would have been required to give legal effect to the transaction, the registrar shall give effect thereto in the prescribed manner in like manner and with the like consequences as if the transaction had been carried out by a registered disposition :

Provided that—

(*a*) So long as the proprietor has power under the Settled Land Act, 1925, or any other statute conferring special powers on a tenant for life or statutory owner, or under the settlement, to override the minor interest so disposed of or created, no estate or charge shall be registered which would prejudicially affect any such powers :

(*b*) So long as the proprietor holds the land on trust for sale, no estate or charge shall be registered in respect of an interest which, under the Law of Property Act, 1925, or otherwise, ought to remain liable to be overridden on the execution of the trust for sale:

(*c*) Nothing in this subsection shall impose on a proprietor an obligation to make a disposition unless the person requiring the disposition to be made has a right in equity to call for the same:

(*d*) Nothing in this subsection shall prejudicially affect the rights of a personal representative in relation to the administration of the estate of the deceased.

(2) On every alteration in the register made pursuant to this section the land certificate and any charge certificate which may be affected shall be produced to the registrar unless an order to the contrary is made by him.

Protection of leases granted under statutory powers by persons other than registered proprietor and restriction on power.

104. All leases at a rent for a term of years absolute authorised by the powers conferred by the Law of Property Act, 1925, or the Settled Land Act, 1925, or any other statute (whether or not as extended by any instrument) may be granted in the name and on behalf of the proprietor by any other person empowered to grant the same, and shall be valid at law or in equity (as the case may require) and shall be protected by notice on the register and registered in the same cases, in like manner and with the same effect as if the lease had been granted by the proprietor of the land, and without prejudice to any priority acquired by the exercise of the power; but nothing in this section shall authorise any person granting any lease in the name of the proprietor to impose (save in regard to the usual qualified covenant for quiet enjoyment) any personal liability on such proprietor.

As to minor interests in mortgage debts.

105. Rules may be made for applying the provisions of this Part of this Act as to minor interests to the case of minor interests in a debt secured by a registered charge.

Mortgages protected on the register.

106.—(1) The proprietor of any registered land may, subject to any entry to the contrary on the register, mortgage, by deed or otherwise, the land or any part thereof in any manner which would have been permissible if the land had not been registered and with the like effect: Provided that the registered land comprised in the mortgage is described (whether by reference to the register or in any other manner) in such a way as is sufficient to enable the registrar to identify the same without reference to any other document.

(2) A mortgage made under this section may, if by deed, be protected by a caution in a specially prescribed form and in no other way, and if not by deed, by a caution.

(3) The entry of a caution in a specially prescribed form under this section shall be deemed a dealing capable of being restrained by caution.

(4) Until the mortgage is protected on the register under this section, it shall be capable of taking effect only in equity and of being overridden as a minor interest.

(5) Where a mortgage by deed has been protected by a caution in the specially prescribed form, the mortgagee, or the persons deriving title under him, may, subject to furnishing sufficient evidence of title, and notwithstanding that any interest or charge affecting the land not registered or protected on the register which has priority to the mortgage is disclosed, require the mortgage to be registered as a charge with the same priority as the caution.

Neither the registrar or any person interested under a registered disposition shall be affected with notice of any such interest or charge so disclosed.

(6) Where a mortgage by deed has been so registered, the proprietor thereof shall, subject to any entry to the contrary on the register, have all the powers which are by this Act conferred on the proprietor of a registered charge; but so long as the mortgage is protected only by a caution, the mortgagee shall not be capable of dealing with the registered land by a registered disposition.

(7) Any mortgage to which this section applies shall devolve and may be transferred, discharged, surrendered, or otherwise dealt with by the same instruments and in the same manner as if the land had not been registered :

Provided that—

(*a*) Where the mortgage has been registered as a charge, the devolutions, dealings and notification of cessation shall be registered in the same manner and with the same consequences as in the case of a registered charge :

(*b*) Where the mortgage has been protected only by a caution in a specially prescribed form, then such devolutions and dealings shall be protected in like manner and in no other way :

(*c*) Subject to any entry to the contrary on the register, the priorities arising in respect of devolutions and dealings shall be regulated by the order of application for registration or for the entry of a caution in the specially prescribed form.

(8) An ad valorem fee may be charged for a caution in a specially prescribed form, but, if and when a mortgage protected by such a caution is registered as a charge, any ad valorem fee paid in respect of the caution shall be taken in or towards satisfaction of the fees payable on such registration.

(9) Rules shall be made for giving effect to the provisions of this section, and in particular for providing in what case documents, or copies thereof, shall be left at the registry, for providing for the marking of documents not retained at the registry, and for extending and adapting the provisions of this section to the case of submortgages :

Provided that where—

(*a*) The mortgage relates also to property other than registered land; or

(*b*) The mortgage is only protected by a caution whether in a specially prescribed form or not; or

(*c*) The nature of the security is such that it is not expedient or practicable that the mortgage should be retained at the registry;

neither the mortgage nor any instruments dealing therewith nor discharges affecting other property besides the registered land shall be required to be permanently retained at the registry.

Power for proprietors to bind successors and to enforce contracts.

107.—(1) Subject to any entry to the contrary on the register, the proprietor of any registered land or charge may enter into any contract in reference thereto in like manner as if the land or charge had not been registered, and, subject to any disposition for valuable consideration which may be registered or protected on the register before the contract is completed or protected on the register, the contract may be enforced as a minor interest against any succeeding proprietor in like manner and to the same extent as if the land or charge had not been registered.

(2) A contract entered into for the benefit of any registered land or charge may (if the same would have been enforceable by the owner for the time being of the land or charge, if not registered, or by a person deriving title under the party contracting for the benefit) be enforced by the proprietor for the time being of the land or charge.

Acquisition of easements and other benefits.

108. The proprietor of registered land may accept for the benefit thereof the grant of any easement, right, or privilege or the benefit of any restrictive covenant or provision (affecting other land, whether registered or not) in like manner and to the same extent as if he were legally and beneficially entitled to the fee simple in possession, or to the term created by the registered lease, for his own benefit free from incumbrances.

Restriction on exercise of powers off the register.

109. Subject to the express provisions relating to leases and mortgages, nothing in this Part of this Act shall be construed as authorising any disposition of any estate, interest, or right or other dealing with land to be effected under this Part of this Act if the disposition or dealing is one which could be effected under another Part of this Act, and any such disposition or dealing shall be effected under and in the manner required by such other Part of this Act, and when so required shall be registered or protected as provided by this Act or the rules.

PART X.

MISCELLANEOUS PROVISIONS.

Provisions as between vendor and purchaser.

110. On a sale or other disposition of registered land to a purchaser other than a lessee or chargee—

(1) The vendor shall, notwithstanding any stipulation to the contrary, at his own expense furnish the purchaser with an authority to inspect the register, and, if required, with a copy of the subsisting entries in the register and of any filed plans and copies or abstracts of any documents or any part thereof noted on the register so far as they respectively affect the land to be dealt with (except charges or incumbrances registered or protected on the register which are to be discharged or overridden at or prior to completion):

Provided that—

(*a*) unless the purchase money exceeds one thousand pounds the costs of the copies and abstracts of the said entries plans and documents shall, in the absence of any stipulation to the contrary, be borne by the purchaser requiring the same;

(*b*) nothing in this section shall give a purchaser a right to a copy or abstract of a settlement filed at the registry:

(2) The vendor shall, subject to any stipulation to the contrary, at his own expense furnish the purchaser with such copies, abstracts and evidence (if any) in respect of any subsisting rights and interests appurtenant to the registered land as to which the register is not conclusive, and of any matters excepted from the effect of registration as the purchaser would have been entitled to if the land had not been registered:

(3) Except as aforesaid, and notwithstanding any stipulation to the contrary, it shall not be necessary for the vendor to furnish the purchaser with any abstract or other written

evidence of title, or any copy or abstract of the land certificate, or of any charge certificate:

(4) Where the register refers to a filed abstract or copy of or extract from a deed or other document such abstract or extract shall as between vendor and purchaser be assumed to be correct, and to contain all material portions of the original, and no person dealing with any registered land or charge shall have a right to require production of the original, or be affected in any way by any provisions of the said document other than those appearing in such abstract, copy or extract, and any person suffering loss by reason of any error or omission in such abstract, copy or extract shall be entitled to be indemnified under this Act:

(5) Where the vendor is not himself registered as proprietor of the land or the charge giving a power of sale over the land, he shall, at the request of the purchaser and at his own expense, and notwithstanding any stipulation to the contrary, either procure the registration of himself as proprietor of the land or of the charge, as the case may be, or procure a disposition from the proprietor to the purchaser:

(6) Unless the certificate is deposited at the registry the vendor shall deliver the land certificate, or the charge certificate, as the case may be, to the purchaser on completion of the purchase, or, if only a part of the land comprised in the certificate is dealt with, or only a derivative estate is created, he shall, at his own expense, produce, or procure the production of, the certificate in accordance with this Act for the completion of the purchaser's registration. Where the certificate has been lost or destroyed, the vendor shall, notwithstanding any stipulation to the contrary, pay the costs of the proceedings required to enable the registrar to proceed without it:

(7) The purchaser shall not, by reason of the registration, be affected with notice of any pending action, writ, order, deed of arrangement or land charge (other than a local land charge) to which this subsection applies, which can be protected under this Act by lodging or registering a creditors' notice, restriction, inhibition, caution or other notice, or be concerned to make any search therefor if and so far as they affect registered land.

This subsection applies only to pending actions, writs, orders, deeds of arrangement and land charges (not including local land charges) required to be registered or re-registered after the commencement of this Act, either under the Land Charges Act, 1925, or any other statute registration whereunder has effect as if made under that Act.

Infants, defectives and lunatics.

111.—(1) A purported disposition of any registered land or charge to an infant made after the commencement of this Act, or by the will of a proprietor dying after such commencement, shall not entitle the infant to be registered as proprietor of the registered land or charge until he attains full age, but in the meantime shall operate only as a declaration binding on the proprietor or personal representative that the registered land or charge is to be held on trust to give effect to minor interests in favour of the infant corresponding, as nearly as may be, with the interests which the disposition purports to transfer or create; and the disposition or a copy thereof or extract therefrom shall be deposited at the registry, and shall, unless and until the tenants for life, statutory owners, personal representatives or trustees for sale are registered as proprietors, be protected by means of a restriction or otherwise on the register :

Provided that—

(*a*) If the disposition is made to the infant jointly with another person of full age, that person shall, during the minority, be entitled to be registered as proprietor, and the infant shall not be registered until he attains full age;

(*b*) Where the registered land or charge is subject to any trusts or rights of redemption in favour

of any person other than the infant, nothing in this section shall affect such trusts or rights of redemption;

(*c*) Where by reason of the minority or otherwise the land is settled land, the provisions of this Act relating to settled land shall apply thereto.

(2) Where an infant becomes entitled under a will or on an intestacy to any registered land or charge, the same shall not be transferred by the personal representative to the infant until he attains full age.

(3) Where an infant becomes entitled to the benefit of a registered charge, the charge shall during the minority be registered in the names of the personal representatives, trustees, or other persons who if the charge had affected unregistered land would have been able to dispose of the same, and they shall for the purposes of this Act have the same powers in reference thereto as the infant would have had if of full age.

(4) A caution may be lodged in the name or on behalf of an infant by his parent, trustee or guardian.

(5) Where a proprietor of any registered land or charge is a lunatic or a defective, the committee of his estate or his receiver shall, under an order in lunacy, or of the court, or under any statutory power, have and may exercise in the name and behalf of the lunatic or defective all the powers which under this Act the lunatic or defective could have exercised if free from disability, and a copy of every such order shall be filed with the registrar and may be referred to on the register.

(6) All the provisions of the Trustee Act, 1925, and of the Lunacy Act, 1890, and of any Act amending the same, shall apply to estates and charges registered under this Act, subject to the express provisions of this Act and to the rules made thereunder.

Inspection of register and other documents at land registry.

112. Subject to the provisions of this Act as to furnishing information to Government departments and local authorities and to such regulations and exceptions and to the payment of such sums as may be made or fixed by general rules, any person registered as proprietor of any land or charge, and any person authorised by any such proprietor, or by an order of the court, or by general rule,

but no other person, may inspect and make copies of and extracts from any register or document in the custody of the registrar relating to such land or charge.

Office copies to be evidence.

113. Office copies of and extracts from the register and of and from documents and plans filed in the registry shall be admissible in evidence in all actions and matters, and between all persons or parties, to the same extent as the originals would be admissible, but any person suffering loss by reason of the inaccuracy of any such copy or extract shall be entitled to be indemnified under this Act, and no solicitor, trustee, personal representative, or other person in a fiduciary position shall be answerable in respect of any loss occasioned by relying on any such copy or extract.

Fraudulent dispositions how far to be void.

114. Subject to the provisions in this Act contained with respect to indemnity and to registered dispositions for valuable consideration, any disposition of land or of a charge, which if unregistered would be fraudulent and void, shall, notwithstanding registration, be fraudulent and void in like manner.

Penalty for suppression of deeds and evidence.

115. If in the course of any proceedings before the registrar or the court in pursuance of this Act any person concerned in such proceedings as principal or agent, with intent to conceal the title or claim of any person, or to substantiate a false claim, suppresses, attempts to suppress, or is privy to the suppression of, any document or fact, the person so suppressing, attempting to suppress, or privy to suppression, shall be guilty of a misdemeanor.

Penalty for certain fraudulent acts.

116.—(1) If any person fraudulently procures, attempts fraudulently to procure, or is privy to the fraudulent procurement of, any entry on, erasure from or alteration of the register, or any land or charge certificate, he shall be guilty of a misdemeanor.

(2) Any entry, erasure, or alteration so made by fraud, shall be void as between all persons who are parties or privy to the fraud.

Punishment of misdemeanors.

117. A person guilty of a misdemeanor under this Act shall—

(*a*) on conviction on indictment, be liable to imprisonment for a term not exceeding two years, or to a fine not exceeding five hundred pounds;

(*b*) on summary conviction, be liable to imprisonment for a term not exceeding three months or to a fine not exceeding one hundred pounds or to both such imprisonment and fine.

Penalty for unqualified persons drawing instruments.

118. Every person who not being a barrister or a duly certificated solicitor, notary public, or conveyancer, either directly or indirectly, for or in expectation of any fee, gain, or reward, draws or prepares any instrument of transfer or charge, or makes any application or lodges any document for registration at the registry, shall on summary conviction be liable to a fine not exceeding fifty pounds :

Provided that this section shall not extend to—

(*a*) any public officer drawing or preparing instruments and applications in the course of his duty; or

(*b*) any person employed merely to engross any instrument or application.

Civil remedies and discovery.

119.—(1) No proceeding or conviction for any act declared by this Act to be a misdemeanor affects any remedy to which any person aggrieved by such act may be entitled, either at law or in equity.

(2) Nothing in this Act entitles any person to refuse to make a complete discovery by answer in any legal proceeding, or to answer any question or interrogatory in any civil proceeding, in any court of law; but no answer to any such question or interrogatory shall be admissible in evidence against such person in any criminal proceeding under this Act.

PART XI.

COMPULSORY REGISTRATION.

Power to make orders rendering registration compulsory in certain areas.

120.—(1) His Majesty may, by Order in Council, declare, as respects any county or part of a county mentioned or defined in the Order, that, on and after a day specified in the Order, registration of title to land is to be compulsory on sale :

Provided that nothing in this Act or in any such Order shall render compulsory the registration of the title to an incorporeal hereditament or to mines and minerals apart from the surface, or to corporeal hereditaments parcel of a manor and included in the sale of a manor as such.

(2) Any such Order may be made—

(*a*) at any time at the instance of the county council concerned; and

(*b*) at any time after the expiration of ten years from the commencement of this Act otherwise than at the instance of a county council;

subject in either case to compliance with the provisions hereinafter contained relating to such Orders respectively:

Provided that any proceedings preliminary to the making of the first Order to be made otherwise than at the instance of a county council may be taken before the expiration of the said period.

(3) Any Order made under this section shall be made with due regard to the utilisation, if practicable, of any land registry existing in the county to which the order relates or conveniently near thereto.

(4) In the event of any portion of a county as regards which an Order has been made under this Part of this Act or under any corresponding provision in any enactment replaced by this Act being included in another county as regards which no Order has been so made, such Order shall cease to be in force within such included portion of the county

(5) In the event of any portion of a county as regards which no Order has been made being included in another county as regards which an Order has been so made, such Order shall apply to such included portion of the county.

(6) Any Order made under this Part of this Act or under any corresponding provision in any enactment replaced by this Act may be revoked or varied by a subsequent Order.

(7) For the purposes of this Part of this Act, "county" means the administrative county, and includes, a county borough, and "county council" includes, the council of such a borough.

Provisions as to Orders made at the instance of a county council.

121.—(1) If at a meeting of a county council, at which at least two-thirds of the members of the council are present, a resolution is passed signifying the desire of the county council that registration of title should be compulsorily applied to the county over which the council has jurisdiction, or any part thereof, such an Order in Council as aforesaid may be made as respects that county or any part to which the resolution extends, and is in this Part of the Act referred to as an Order made at the instance of a county council.

(2) Every such Order shall within thirty days from the date thereof, if Parliament be then sitting, or within twenty days from the commencement of the next session if Parliament be not sitting, be laid on the table of both Houses of Parliament, and if within forty days of any Order being being so laid an Address in either House disapproving of the Order be carried, the Order shall be void and of no effect.

Provisions as to Orders made otherwise than at the instance of a county council.

122. The making of an Order otherwise than at the instance of a county council shall be subject to the following provisions :—

(i) Notice of every Order proposed to be made shall, not less than six months before the Order is made and not more than eighteen months before the date on which it is to take effect, be given to the council of the county to which such Order is proposed to be applied. A draft of the proposed Order, together with the name of at least one place within or conveniently near to the county where a district registry office is proposed to be established, shall accompany the notice, and shall also be published in the Gazette :

(ii) The county council within ten days of the receipt of such notice shall furnish a copy thereof to any law society whose district will be affected by the proposed Order :

(iii) The county council and any such law society or either of them, may, within six months after receipt of notice by the county council of any proposed Order, pass a resolution that a public inquiry shall be held in the county

proposed to be affected, as to the desirability of extending compulsory registration of title on sale to the county or part of the county intended to be affected:

(iv) A copy of the resolution shall be sent to the Lord Chancellor:

(v) After the receipt of a copy of the resolution the Lord Chancellor shall, after consultation with the Law Society, appoint a person, being a practising member of the legal profession to hold and conduct the inquiry and shall fix the date and place on and in which the inquiry is to be held:

(vi) The Lord Chancellor may make rules as to the conduct of such inquiries, the manner in which the expenses thereof are to be borne, and any other matters relating to the inquiries:

(vii) At any such inquiry the county council and such other persons as may be admitted by the person holding the inquiry, or may be nominated by or on behalf of any such law society as aforesaid and all other persons willing to give evidence, shall be entitled to submit reasons, whether local or general, for or against the extension of compulsory registration of title on sale to the county or part of the county intended to be affected:

(viii) The person holding the inquiry shall, after the completion thereof, forthwith report in writing to the Lord Chancellor the result, stating the facts and reasons upon which the result is arrived at, and the Lord Chancellor shall cause the report to be published in the Gazette or in such other manner as he may direct:

(ix) If, after the publication of the report, or after the period within which a resolution that an inquiry be held may be passed has expired without any such resolution being passed, the Lord Chancellor decides to proceed with the draft Order, with or without amendment, he shall cause such draft to be laid upon the table of each House of Parliament:

(x) The Order shall not be made unless both Houses by resolution approve the draft, either without modification or with modifications to which both Houses agree; but, upon such approval being given, the Order may be made in the form in which the draft has been approved:

(xi) Not more than one such Order shall be made within the period of eleven years from the commencement of this Act:

(xii) The first Order shall not affect more than one county with any county borough surrounded by or contiguous to such county.

Effect of Act in areas where registration is compulsory.

123.—(1) In any area in which an Order in Council declaring that registration of title to land within that area is to be compulsory on sale is for the time being in force, every conveyance on sale of freehold land and every grant of a term of years absolute not being less than forty years from the date of the delivery of the grant, and every assignment on sale of leasehold land held for a term of years absolute having not less than forty years to run from the date of delivery of the assignment, shall (save as hereinafter provided), on the expiration of two months from the date thereof or of any authorised extension of that period, become void so far as regards the grant or conveyance of the legal estate in the freehold or leasehold land comprised in the conveyance, grant, or assignment, or so much of such land as is situated within the area affected, unless the grantee (that is to say, the person who is entitled to be registered as proprietor of the freehold or leasehold land) or his successor in title or assign has in the meantime applied to be registered as proprietor of such land:

Provided that the registrar, or the court on appeal from the registrar, may, on the application of any persons interested in any particular case in which the registrar or the court is satisfied that the application for first registration cannot be made within the said period, or can only be made within that period by incurring unreasonable expense, or that the application has not been made within the said period by reason of some accident or other sufficient cause, make an order extending the said period; and if such order be made, then, upon the registration of the grantee or his successor or assign, a

note of the order shall be endorsed on the conveyance, grant or assignment:

In the case of land in an area where, at the date of the commencement of this Act, registration of title is already compulsory on sale, this subsection shall apply to every such conveyance, grant, or assignment, executed on or after that date.

(2) Rules under this Act may provide for applying the provisions thereof to dealings with the land which may take place between the date of such conveyance, grant, or assignment and the date of application to register as if such dealings had taken place after the date of first registration, and for registration to be effected as of the date of the application to register.

(3) In this section the expressions "conveyance on sale" and "assignment on sale" mean an instrument made on sale by virtue whereof there is conferred or completed a title under which an application for registration as first proprietor of land may be made under this Act, and include a conveyance or assignment by way of exchange where money is paid for equality of exchange, but do not include an enfranchisement or extinguishment of manorial incidents, whether under the Law of Property Act, 1922, or otherwise, or an assignment or surrender of a lease to the owner of the immediate reversion containing a declaration that the term is to merge in such reversion.

Compulsory provisions bind the Crown.

124. This Part of this Act, as respects transactions completed after the commencement of this Act, binds the Crown.

Special provisions as to orders affecting Ridings of Yorkshire.

125. Where an order is made under this Part of this Act which applies to any of the Ridings of Yorkshire the order may provide for the transfer to the Land Registry of the business of the local deed registry established for the Riding, or for the local deed registry being constituted a district registry under this Act and for such district registry being administered by the county council, or, with the consent of the county council, may contain such other provisions as appear expedient with respect to the local deed registry; and the order may contain such supplemental, incidental, and conse-

quential provisions (including provisions for the modification of the enactments relating to the constitution and administration of the local deed registry, and for the payment of compensation to the county council of the Riding in respect of future loss of fees or otherwise, and to the officers of the registry) as appear necessary or expedient for the purposes of the order.

PART XII.

ADMINISTRATIVE AND JUDICIAL PROVISIONS.

His Majesty's Land Registry.

His Majesty's Land Registry.

126.—(1) There shall continue to be an office in London to be called His Majesty's Land Registry, the business of which shall be conducted by a registrar to be appointed by the Lord Chancellor and known as the Chief Land Registrar, with such officers (namely, registrars, assistant registrars, clerks, messengers, and servants), as the Lord Chancellor, with the concurrence of the Treasury as to number, may appoint.

(2) A person shall not be qualified to be appointed Chief Land Registrar unless he is a barrister of not less than ten years' standing, and a person shall not be qualified to be appointed a registrar or an assistant registrar unless he is either a barrister or solicitor of not less than five years' standing.

(3) The Chief Land Registrar, registrars, assistant registrars, clerks, messengers, and servants shall receive such salaries or remuneration as the Treasury may from time to time direct.

(4) The salaries of the Chief Land Registrar, registrars, assistant registrars, clerks, messengers, and servants, and such incidental expenses of carrying this Act into effect as may be sanctioned by the Treasury, shall continue to be paid out of money provided by Parliament.

(5) The Lord Chancellor may make regulations for the land registry, and for assigning the duties to the respective officers, and determining the acts of the registrar which may be done by a registrar or assistant registrar, and for altering or adding to the official styles of the Chief Land Registrar and other officers of the land

registry. Subject to such regulations, anything authorised or required by this Act to be done to or by the registrar shall be done to or by the Chief Land Registrar. All such regulations for the time being in force shall have effect as if they were enacted in this Act.

(6) The Lord Chancellor may also make regulations as to the conduct of business at the land registry during any vacancy in the office of Chief Land Registrar, and for distributing the duties amongst the respective officers, and for assigning to a registrar or assistant registrar all or any of the functions and authorities by this Act or any other Act assigned to or conferred on the registrar, and all acts done by a registrar or assistant registrar under any such regulations shall have the same effect in all respects as if they had been done by the Chief Land Registrar.

(7) There shall continue to be a seal of the land registry and any document purporting to be sealed with that seal shall be admissible in evidence.

Conduct of business by registrar.

127. Subject to the provisions of this Act, the Chief Land Registrar shall conduct the whole business of registration under this Act, and shall frame and cause to be printed and circulated or otherwise promulgated such forms and directions as he may deem requisite or expedient for facilitating proceedings under this Act.

Power for registrar to summon witnesses.

128.—(1) The Chief Land Registrar, or any officer of the land registry authorised by him in writing, may administer an oath or take a statutory declaration in pursuance of this Act in that behalf for any of the purposes of this Act, and the Chief Land Registrar may, by summons under the seal of the land registry, require the attendance of all such persons as he may think fit in relation to the registration of any title; he may also, by a like summons, require any person having the custody of any map, survey, or book made or kept in pursuance of any Act of Parliament to produce such map, survey, or book for his inspection; he may examine upon oath any person appearing before him and administer an oath accordingly; and he may allow to every person summoned by him the reasonable charges of his attendance:

Provided that no person shall be required to attend in obedience to any summons or to produce such documents as aforesaid unless the reasonable charges of his

attendance and of the production of such documents be paid or tendered to him.

(2) Any charges allowed by the registrar in pursuance of this section shall be deemed to be charges incurred in or about proceedings for registration and may be dealt with accordingly.

(3) If any person, after the delivery to him of such summons as aforesaid, or of a copy thereof, and payment or tender of his reasonable charges for attendance, wilfully neglects or refuses to attend in pursuance of such summons, or to produce such maps, surveys, books, or other documents as he may be required to produce under the provisions of this Act, or to answer upon oath or otherwise such questions as may be lawfully put to him by the registrar under the powers of this Act, he shall be liable on summary conviction to a fine not exceeding twenty pounds.

Interchange of information between Land Registry and other Departments.

129. The Commissioners of Inland Revenue and other Government Departments, and local authorities, may furnish to the registrar on his request such particulars and information in regard to land and charges, and the registrar may in like manner furnish to the Commissioners of Inland Revenue, other Government Departments, and local authorities on their request such particulars and information as they are respectively by law entitled to require owners of property to furnish to them direct.

Statutory acknowledgments on return of documents.

130. When any document is delivered or returned by the registrar to any person he may, at the cost of the registry, require such person to give a statutory acknowledgment of the right of the registrar and his successors in office to production of such document and to delivery of copies thereof, and may endorse notice of such right on the document, and the acknowledgment shall not be liable to stamp duty.

Indemnity to officers of registry.

131. The Chief Land Registrar shall not, nor shall a registrar or assistant registrar nor any person acting under the authority of the Chief Land Registrar or a registrar or assistant registrar, or under any order or general rule made in pursuance of this Act, be liable to any action or proceeding for or in respect of any act or matter done or omitted to be done in good faith in the

exercise or supposed exercise of the powers of this Act, or any order or general rule made in pursuance of this Act.

District Registries.

Power to form district registries by general orders.

132.—(1) The Lord Chancellor, with the concurrence of the Treasury, shall have power by general orders from time to time to do all or any of the following things :—

(*a*) To create district registries for the purposes of registration of titles to land within the defined districts respectively, and to alter any districts which may have been so created :

(*b*) To fix, by notice to be published in the Gazette, the time for the commencement of registration at a district registry so created of titles to land within a district so defined :

(*c*) To direct registration of land to be commenced in any one or more district or districts pursuant to any such notice :

(*d*) To appoint district registrars, assistant district registrars, clerks, messengers, and servants to perform the business of registration in any district which may from time to time be created a district for registration under this Act :

(*e*) To provide for the mode in which district registrars are to be remunerated :

(*f*) To modify the provisions of this Act with respect to the formation and constitution of district registries, except the provision relating to the qualifications of district registrars, and assistant district registrars.

(2) A person shall not be qualified to be appointed district registrar under this Act unless he is a barrister or solicitor or certificated conveyancer of not less than ten years' standing, and a person shall not be qualified to be appointed an assistant district registrar under this Act unless he is either a barrister or solicitor or certificated conveyancer of not less than five years' standing.

(3) A district registrar or assistant district registrar may, with the assent of the Lord Chancellor, follow another calling.

(4) A seal shall be prepared for each district registry and any instrument purporting to be sealed with such seal shall be admissible in evidence.

Powers of district registrar, and appeals from him.

133. Subject to general rules each district registrar, and assistant district registrar shall, as regards the land within his jurisdiction, have the same powers and indemnity as are herein given to the registrars and assistant registrars in the land registry, and there shall be the same right to appeal as in the case of the registrar; an order of a district registrar may be enforced and any breach thereof punished in like manner as if the order had been made by the Chief Land Registrar:

Provided that the Lord Chancellor may, by general rules, make provision—

(*a*) for the duties of a district registrar as regards all or any of the proceedings preliminary to first registration, or as regards any matters which the district registrar has to determine, or any other matters being performed by the Chief Land Registrar or a registrar or assistant registrar in the land registry; and

(*b*) for any district registrar obtaining directions from or acting with the sanction of the Chief Land Registrar or a registrar or assistant registrar.

Application of general orders, &c. to districts.

134. The general orders, rules, forms, directions, and fees for the time being applying to and payable in the land registry shall also apply to and be payable in all the district registries, subject to any alteration or addition for the time being made for any district by the Lord Chancellor with the advice and assistance of the Rule Committee, and, so far as they relate to fees, with the concurrence of the Treasury.

Local Registries of Deeds.

Exemption of land registered under Act from registry of deeds.

135.—(1) Any land situated within the jurisdiction of any of the following local deed registries (that is to say):—

(*a*) The registry for the county of Middlesex; or

(*b*) The registry for the West Riding of Yorkshire; or

(*c*) The registry for the North Riding of Yorkshire; or

(*d*) The registry for the East Riding of Yorkshire and the town and county of the town of Kingston-upon-Hull;

an estate wherein is registered under this Act, shall from and after the date of the registration thereof, be exempt, as respects the estate so registered, from such jurisdiction; and no document relating to any such registered estate executed, and no testamentary instrument relating to any such registered estate coming into operation, subsequently to such date as last aforesaid, shall be required to be registered in any of the said local deed registries.

(2) This section does not apply to estates and interests excepted from the effect of registration under a possessory or qualified title, or to an unregistered reversion on a registered leasehold title, or to dealings with incumbrances created prior to the registration of the title to the land.

Power to transfer Yorkshire registries to land registry.

136.—(1) Subject to the provisions of this Act relating to compulsory registration, the Lord Chancellor may enter into an agreement with the county council of any of the three ridings of Yorkshire for the transfer of the business of the local deed registry established in that riding to the land registry.

(2) The agreement shall be drawn up in accordance with the principles of sections one, three, and four of the Land Registry (Middlesex Deeds) Act, 1891, which provided for the transfer of the Middlesex registry of deeds to the land registry, and shall, after approval by the Treasury, take effect accordingly.

54 & 55 Vict. c. 64.

(3) The whole of the property, assets, and liabilities of the county council, in relation to the local deed registry, shall be included in the transfer, and shall be taken over by the State at a price to be specified in or ascertained under the terms of the agreement.

(4) Unless and until an agreement as aforesaid is concluded the county council may from time to time, at intervals of five years, in the event of their suffering loss owing to the business of the local deed registry being diminished by reason of this Act, apply to the Treasury for compensation, and the Treasury shall award such compensation accordingly.

(5) The compensation shall be made by the payment of a capital sum to the county fund to be determined in case of dispute by arbitration on the basis of the receipts and expenditure in respect of the local deed registry during the three years previous to the claim being made, and that the county fund shall not be placed in a worse financial position by the operation of this Act.

(6) All payments under this section shall be made out of money to be provided by Parliament.

Provisions as to the Land Registry Act, 1862.

Provisions as to the Land Registry Act, 1862.

137.—(1) No application for the registration of an estate under the Land Registry Act of 1862 shall be entertained.

25 & 26 Vict. c. 53.

(2) The Lord Chancellor may, by order, provide for the registration under this Act, without cost to the parties interested, of all titles registered under the Land Registry Act, 1862, and care shall be taken in such order to protect any rights acquired in pursuance of registration under such last-mentioned Act, and any order so made by the Lord Chancellor shall have the same effect as if it were enacted in this Act; and until such estate is registered under this Act, the Act of 1862 shall apply thereto in the same manner as if this Act had not been passed.

27 & 28 Vict. c. 114. 28 & 29 Vict. c. 78.

(3) The officers of the land registry shall for all the purposes of the Land Registry Act, 1862, so far as it remains in operation, and for all the purposes of the Improvement of Land Act, 1864, and of the Mortgage Debenture Act, 1865, be deemed to be officers acting under the Land Registry Act, 1862, and having to discharge the duties belonging to officers acting under those Acts as occasion may require.

Description and Powers of the Court.

Jurisdiction of High Court and county courts.

138.—(1) For the purposes of this Act, "the court" means the High Court and also the Court of Chancery of the County Palatine of Lancaster or the Court of Chancery of the County Palatine of Durham or the county court, where those courts respectively have jurisdiction, according as the one or other

of such courts may be prescribed by the general rules made for carrying this Act into effect.

(2) All matters within the jurisdiction of the High Court under this Act shall, subject to the enactments for the time being in force, relating to the Supreme Court of Judicature, be assigned to the Chancery Division of the court; and every application to the court under this Act shall, except where it is otherwise expressed and subject to any rules of court to the contrary, be by summons at chambers.

(3) The county court shall, in cases where it has jurisdiction under this Act, have, for all the purposes of such jurisdiction, all the powers of the High Court.

(4) The court shall have full power and discretion to make such order as it thinks fit respecting the costs, charges and expenses of all or any of the parties to any application.

(5) The Lord Chancellor may from time to time assign the duties vested in the High Court in relation to all or any matters under this Act, including appeals from the county court, to any particular judge or judges of that court.

Powers of court in action for specific performance.

139.—(1) Where an action is instituted for the specific performance of a contract relating to registered land, or a registered charge, the court having cognizance of the action may, by summons, or by such other mode as it deems expedient, cause all or any parties who have registered interests or rights in the registered land or charge, or have entered up notices, cautions, restrictions, or inhibitions against the same to appear in such action, and show cause why such contract should not be specifically performed, and the court may direct that any order made by the court in the action shall be binding on such parties or any of them.

(2) All costs incurred by any parties so appearing in an action to enforce against a vendor specific performance of his contract to sell any registered land or charge shall be taxed as between solicitor and client, and, unless the court otherwise orders, be paid by the vendor.

Power of registrar to state case

140.—(1) Whenever, upon the examination of the title to any interest in land, the registrar entertains a doubt as to any matter of law or fact arising upon such

for the court.

title, he may (whether or not the matter has been referred to a conveyancing counsel in the prescribed manner), upon the application of any party interested in such land—

(*a*) refer a case for the opinion of the High Court and the court may direct an issue to be tried before a jury for the purpose of determining any fact;

(*b*) name the parties to such case;

(*c*) give directions as to the manner in which proceedings in relation thereto are to be brought before the court.

(2) The opinion of any court to whom any case is referred by the registrar shall be conclusive on all the parties to the case, unless the court permits an appeal.

Intervention of court in case of persons under disability.

141. Where a person under disability, or person outside the jurisdiction of the High Court, or person yet unborn, is interested in the land in respect of the title to which any question arises as aforesaid, any other person interested in such land may apply to the court for a direction that the opinion of the court shall be conclusively binding on the person under disability, person outside the jurisdiction, or unborn person.

Power for court to bind interests of persons under disability.

142.—(1) The court shall hear the allegations of all parties appearing.

(2) The court may disapprove altogether or may approve, either with or without modification, of the directions of the registrar respecting any case referred to the court.

(3) The court may, if necessary, appoint a guardian, next friend or other person to appear on behalf of any person under disability, person outside the jurisdiction, or unborn person.

(4) If the court is satisfied that the interest of any person under disability, outside the jurisdiction, or unborn, will be sufficiently represented in any case, it shall make an order declaring that all persons, with the exceptions, if any, named in the order, are to be conclusively bound, and thereupon all persons, with such exceptions, if any, as aforesaid, shall be conclusively

bound by any decision of the court in which any such person is concerned.

Appeals.

143.—(1) Any person aggrieved by any order of a judge of a county court may, within the prescribed time and in the prescribed manner, appeal to the High Court.

(2) The court on hearing such appeal may give judgment affirming, reversing, or modifying the order appealed from, and may finally decide thereon, and make such order as to costs in the court below and of the appeal as may be agreeable to justice; and if the court alter or modify the order, the order so altered or modified shall be of the like effect as if it were the order of the county court.

The High Court may also, in cases where the court thinks it expedient so to do, instead of making a final order, remit the case, with such directions as the court may think fit, to the court below.

(3) Any person aggrieved by an order made under this Act by the High Court otherwise than on appeal from a county court, or by the Court of Chancery of Lancaster or Durham, may appeal within the prescribed time in the same manner and with the same incidents in and with which orders made by the High Court or such Court of Chancery respectively in cases within the ordinary jurisdiction of such court may be appealed from.

Part XIII.

Rules, Fee Orders, Regulations, Short Title, Commencement and Extent.

Power to make general rules.

144.—(1) Subject to the provisions of this Act, the Lord Chancellor may, with the advice and assistance of a judge of the Chancery Division of the High Court to be chosen by the judges of that division, the Chief Land Registrar, and three other persons, one to be chosen by the General Council of the Bar, one by the Minister of Agriculture and Fisheries, and one by the Council of the Law Society (which body of persons are in this Act referred to as the Rule Committee), make general rules for all or any or the following purposes :—

(i) For regulating the mode in which the register is to be made and kept;

(ii) For prescribing the forms to be observed, the precautions to be taken, the instruments to be used, the notices to be given, and the evidence to be adduced in all proceedings before the registrar or in connexion with registration, and in particular with respect to the reference to a conveyancing counsel of any title to land proposed to be registered with an absolute title;

(iii) For regulating the procedure on application for first registration, provided that the applicant or his solicitor shall not be bound to make any declaration where a documentary title is shown which would operate as a guarantee in regard to matters not disclosed by the abstract;

(iv) For enabling registration with a possessory title to be provisionally effected pending the investigation of the title;

(v) For regulating the custody of any documents from time to time coming into the hands of the registrar, with power to direct the destruction of any such documents where they have become altogether superseded by entries in the register, or have ceased to have any effect;

(vi) For the taxation of costs charged by solicitors or certificated conveyancers in or incidental to or consequential on the registration of an estate in land or any other matter required to be done for the purpose of carrying this Act into execution, and for determining the persons by whom such costs are to be paid;

(vii) For carrying out the provisions of this Act with respect to compulsory registration;

(viii) For adapting to sub-mortgages and to incumbrances prior to registration the provisions of this Act with regard to charges;

(ix) For the conduct of official searches against cautions, inhibitions, and such matters of a like nature as may be prescribed, and for enabling the proprietor or any person authorised by him to apply for such searches by telegraph or telephone, and for the replies being returned in

like manner to him or to such other person as he may direct;

(x) For enabling cautions to be entered against the registration of possessory and qualified titles as qualified, good leasehold, or absolute and against the registration of good leasehold title as absolute;

(xi) For enabling a mortgagee by deposit to give notice to the registrar by registered letter or otherwise of the deposit or intended deposit with him of the land certificate, or charge certificate: Provided that the fee for the entry of any such notice shall not exceed one shilling;

(xii) For allowing the insertion in the register, and in land certificates, of the price paid or value declared on first registrations, transfers, and transmissions of land;

(xiii) For making such adaptations as changes in the general law (including changes effected by the Law of Property Act, 1922, or any Acts of the present session of Parliament amending or re-enacting any provisions of that Act) may render expedient, with a view to the practice under this Act being from time to time adapted, so far as expedient, to the practice in force in regard to unregistered land;

(xiv) For enabling the registrar, without further investigation, to accept a title as absolute or good leasehold, in proper cases, on the faith of certificates given by counsel or solicitors or both;

(xv) For clearing the registered title on suitable occasions, and for enabling the registrar to permit any person interested to inspect entries on the register which have been cancelled, whether or not the title has been closed;

(xvi) For giving notice on land certificates of the general effect of registration;

(xvii) For the registration, by way of notice, on the first registration of the land, of any easement, right, or privilege, created by an instrument and operating at law which appears to affect adversely the land, and so far as practicable by reference to the instrument creating the same;

(xviii) For enabling any person who acquires any such easement, right, or privilege, after the date of first registration of the land, to require (subject to notice being given to the owner of the servient land) entry to be made in the register of notice of the same, and so far as practicable by reference to the instrument creating the right;

(xix) For enabling the first or any subsequent proprietor to require that notice of his title to any such right or interest, whether acquired under an instrument or by prescription or otherwise, being appurtenant or appendant to the registered land, be entered on the register, and, so far as practicable, by reference to the instrument (if any) creating the right or interest, and for prescribing the effect of any such entry;

(xx) For providing for the registration of the title to an annuity or a rentcharge in possession (either perpetual or for a term of years absolute), or to mines and minerals when held separately from the surface, and as to notices to be entered of any exception of mines and minerals; and for preventing the registration of the benefit of any easement, right, privilege, or restrictive covenant, otherwise than as belonging to registered land;

(xxi) For regulating the issue and forms of certificates, and, if deemed desirable, for prescribing any special notification on the certificate to be given by way of warning when incumbrances, notices, and other adverse entries appear on the register;

(xxii) For providing for the cases in which the registrar may grant a certificate that an intended disposition is authorised and will be registered if presented;

(xxiii) For prescribing the effect of priority notices and of priority cautions and inhibitions;

(xxiv) For enabling a proprietor of any registered land or charge to register not more than three addresses (including, if he thinks fit, the address of his solicitor or firm of solicitors, to which notices are to be sent;

(xxv) For providing any special precautions to be taken against forgery when the land certificate is not in the possession of the proprietor of the registered land;

(xxvi) For prescribing any matter by this Act directed or authorised to be prescribed and for effecting anything with respect to which rules are by this Act authorised or required to be made;

(xxvii) For adapting the provisions of this Act relating to transfers of registered land to other dispositions authorised to be made by a proprietor;

(xxviii) For prescribing—

(*a*) the procedure to be adopted when land is or becomes subject to any charitable, ecclesiastical or public trusts,

(*b*) any consents to be given before a title to such land is registered,

(*c*) the duties, if any, to be performed by the managing trustees or committee, and

(*d*) the restrictions, if any, to be entered on the register in regard to such land;

(xxix) For enabling entries to be made in the register on the surrender, extinguishment or discharge of any subsisting interest without previously registering the title to the interest which is merged or extinguished;

(xxx) For enabling such alterations to be made in the register as may be consequential on the conversion of perpetually renewable leases into long terms by the Law of Property Act, 1922, as amended;

(xxxi) For regulating any matter to be prescribed or in respect of which rules are to or may be made under this Act and any other matter or thing, whether similar or not to those above mentioned, in respect of which it may be expedient to make rules for the purpose of carrying this Act into execution.

(2) Any rules made in pursuance of this section shall be of the same force as if enacted in this Act.

(3) Any rules made in pursuance of this section shall be laid before both Houses of Parliament within three weeks after they are made, if Parliament be then sitting,

and if Parliament be not then sitting, within three weeks after the beginning of the then next session of Parliament.

Power to make Fee Orders and principles on which fees determined.

145.—(1) The Lord Chancellor may, with the advice and assistance of the Rule Committee and with the concurrence of the Treasury, make orders with respect to the amount of fees payable under this Act, regard being had to the following matters :—

(*a*) In the case of the registration of an estate in land or of any transfer of an estate in land on the occasion of a sale, to the value of the estate as determined by the amount of purchase money; and

(*b*) In the case of the registration of an estate in land, or of any transfer of an estate in land not upon a sale, to the value of the estate, to be ascertained in such manner as may be prescribed; and

(*c*) In the case of registration of a charge or of any transfer of a charge, to the amount of such charge.

(2) Where the personal representatives of a deceased person are registered as proprietors of the registered land on his death, a fee shall not be chargeable for registering any disposition of the land by them unless the disposition is for valuable consideration.

(3) Specially reduced fees may be authorised to be charged on the registration of title to land wholly acquired for the purpose of being used as a street, or for street widening or improvements, or when acquired by a Government Department, a local authority, or other statutory body for permanent objects not involving a resale or other disposition.

(4) The fee orders relating and incidental to registration of title shall be arranged from time to time so as to produce an annual amount sufficient to discharge the salaries and other expenses (including the annual contribution to the insurance fund) incidental to the working of this Act, and no more.

(5) The Lord Chancellor may, with the consent of the Treasury, by order, from time to time provide for the manner in which the money advanced for the acquisition of the site and the erection of new offices at the registry (so far as not already provided for by the existing sinking

fund) shall be repaid, secured, or otherwise provided for; and also for the manner in which accounts of receipts and expenditure as between the several departments of the land registry are to be kept.

Orders as to remuneration of solicitors.

146.—(1) The remuneration of solicitors in conveyancing and other non-contentious business under this Act shall from time to time be prescribed and regulated by general orders made by the Committee in England constituted under section two of the Solicitors Remuneration Act, 1881; provided that the Chief Land Registrar shall, for the purposes aforesaid, be an additional member of that committee.

44 & 45 Vict. c. 44.

(2) The provisions of the last-mentioned Act apply to any general order made under this section.

Repeals, savings and construction.

147.—(1) The Acts mentioned in the Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule:

Provided that, without prejudice to the provisions of section thirty-eight of the Interpretation Act, 1889:—

52 & 53 Vict. c. 63.

(*a*) Nothing in this repeal shall, save as otherwise expressly provided in this Act, affect any transfer of any interest in land or entry in the register made before the commencement of this Act, or any title or right acquired or appointment made before the commencement of this Act:

(*b*) Nothing in this repeal shall affect any rules, regulations, orders, or other instruments made under any enactment so repealed, but all such rules, regulations, orders, and instruments shall, until superseded, continue in force as if made under the corresponding provision of this Act:

(*c*) Nothing in this repeal shall affect the tenure of office or salary or right to pension or superannuation allowance of any officer appointed before the commencement of this Act:

(*d*) References in any document to any enactment repealed by this Act shall be construed as references to the corresponding provisions of this Act.

(2) References to registration under the Land Charges Act, 1925, apply to any registration made under any other statute which is by the Land Charges Act, 1925,

to have effect as if the registration had been made under that Act.

Short title, commencement and extent.

148.—(1) This Act may be cited as the Land Registration Act, 1925.

(2) This Act shall come into operation on the first day of January nineteen hundred and twenty-six, but shall be deemed to come into operation immediately after the Law of Property Act, 1925, the Settled Land Act, 1925, the Land Charges Act, 1925, the Trustee Act, 1925, and the Administration of Estates Act, 1925, come into operation.

(3) This Act extends to England and Wales only.

Section 147.

SCHEDULE.

ENACTMENTS REPEALED.

Session and Chapter.	Short Title.	Extent of Repeal.
38 & 39 Vict. c. 87.	The Land Transfer Act, 1875 -	The whole Act.
49 & 50 Vict. c. 1.	The Land Registry Act, 1886 -	The whole Act.
60 & 61 Vict. c. 65.	The Land Transfer Act, 1897 -	The whole Act except Part I. thereof.
8 Edw. 7. c. 36.	The Small Holdings and Allotments Act, 1908.	Subsection (4) of section twelve, from "and thereupon" to "Land Transfer Acts, 1875 to 1897," and section thirteen.
12&13 Geo. 5. c. 16.	The Law of Property Act, 1922	Subsections (8) and (10) of section one hundred and fifty-eight; subsection (8) of section one hundred and sixty; Part X.; section seven of Part I. of the First Schedule, and the Sixteenth Schedule.
15 Geo. 5. c. 5.	The Law of Property (Amendment) Act, 1924.	Section eight and the Eighth Schedule.

CHAPTER 22.

An Act to consolidate the enactments relating to the registration of pending actions, annuities, writs, orders, deeds of arrangement and land charges, and to searches. [9th April 1925.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

Preliminary.

Registers at the land registry.

1.—(1) The registrar shall, subject as provided in this Act in regard to the register of annuities, continue to keep at the registry in the prescribed manner the following registers, namely—

(*a*) a register of pending actions;

(*b*) a register of annuities;

(*c*) a register of writs and orders affecting land;

(*d*) a register of deeds of arrangement affecting land; and

(*e*) a register of land charges.

(2) An alphabetical index, in the prescribed form, shall be kept at the registry of all entries made in any register kept at the registry pursuant to this Act.

(3) Every application to register shall be in the prescribed form and shall contain the prescribed particulars.

Part I.

Pending Actions.

Register of pending actions.

2.—(1) A pending action, that is to say, any action, information or proceeding pending in court relating to land or any interest in or charge on land, and a petition in bankruptcy filed after the commencement of this Act, may be registered in the register of pending actions.

(2) Subject to general rules, every application to register a pending action shall contain particulars of—

(*a*) the name, address, and description of the estate owner or other person whose estate or interest is intended to be affected thereby; and

(*b*) the court in which the action, information or proceeding was commenced or filed; and

(*c*) the title of the action, information or proceeding; and

(*d*) the day when the action, information or proceeding was commenced or filed.

(3) The registrar shall forthwith enter the particulars in the register, in the name of the estate owner or other person whose estate or interest is intended to be affected.

(4) In the case of a petition in bankruptcy filed against a firm, the application to register the pending action shall state the names and addresses of the partners, and the registration shall be effected against each partner as well as against the firm.

(5) No fee shall be charged for the registration of a petition in bankruptcy as a pending action if the application therefor is made by the registrar of the court in which the petition is filed.

(6) The court, if it thinks fit, may, upon the determination of the proceedings, or during the pendency thereof if satisfied that the proceedings are not prosecuted in good faith, make an order vacating the registration of the pending action, and direct the party on whose behalf the registration was made to pay all or any of the costs and expenses occasioned by the registration and vacating thereof.

(7) When an office copy of an order of discharge or an acknowledgment of satisfaction in the prescribed form is lodged with the registrar, he may enter discharge or satisfaction of the registered pending action to which it refers, and may issue a certificate in the prescribed form of such discharge or satisfaction.

(8) The registration of a pending action shall cease to have effect at the expiration of five years from the date

of registration, but may be renewed from time to time, and, if renewed, shall have effect for five years from the date of renewal.

Protection of purchasers against unregistered pending actions.

3.—(1) A pending action shall not bind a purchaser without express notice thereof unless it is for the time being registered pursuant to this Part of this Act:

Provided that as respects a petition in bankruptcy, this subsection only applies in favour of a purchaser of a legal estate in good faith, for money or money's worth, without notice of an available act of bankruptcy.

(2) As respects any transfer or creation of a legal estate, a petition in bankruptcy filed after the commencement of this Act, which is not for the time being registered as a pending action, shall not be notice or evidence of any act of bankruptcy therein alleged.

(3) The title of a trustee in bankruptcy acquired after the commencement of this Act shall be void as against a purchaser of a legal estate in good faith for money or money's worth without notice of an available act of bankruptcy claiming under a conveyance made after the date of registration of the petition in bankruptcy as a pending action, unless, at the date of the conveyance, either the registration of the pending action is in force, or the receiving order is registered pursuant to Part III. of this Act.

Part II.

Annuities.

Register of annuities.

4.—(1) No annuity shall be entered in the register of annuities after the commencement of this Act.

(2) An annuity registered before the commencement of this Act in the register of annuities may remain registered until the entry is vacated in the prescribed manner, on the prescribed evidence as to satisfaction, cesser or discharge being furnished.

(3) When an acknowledgment in the prescribed form of satisfaction, cesser or discharge is lodged with the registrar, he may enter satisfaction, cesser or discharge of the registered annuity to which it refers, and may issue a certificate in the prescribed form of such satisfaction, cesser or discharge.

(4) The register of annuities shall be closed when all the entries therein have been vacated, or the prescribed evidence of the satisfaction, cesser or discharge of all the annuities has been furnished.

(5) In this Part of this Act the expression "annuity" means a rentcharge or an annuity for one or more life or lives, or for any term of years or greater estate determinable on one or more life or lives created after the twenty-fifth day of April, eighteen hundred and fifty-five, and before the commencement of this Act, and not being a rentcharge or an annuity created by a marriage settlement or will.

Protection of purchasers, &c. against unregistered annuities.

5. An annuity which before the commencement of this Act was capable of being registered in the register of annuities shall be void as against a creditor or a purchaser of any interest in the land charged therewith unless the annuity is for the time being registered in the register of annuities or in the register of land charges as hereinafter provided.

PART III.

WRITS AND ORDERS AFFECTING LAND.

Register of writs and orders affecting land.

6.—(1) There may be registered in the register of writs and orders—

(*a*) any writ or order affecting land issued or made by any court for the purpose of enforcing a judgment, statute or recognizance, whether obtained on behalf of the Crown or otherwise, or for the purpose of enforcing any inquisition finding a debt due to the Crown, or any obligation or specialty made to the Crown;

(*b*) any order appointing a receiver or sequestrator of land;

(*c*) any receiving order in bankruptcy made after the commencement of this Act, whether or not it is known to affect land.

(2) Every entry made pursuant to this section shall be made in the name of the estate owner or other person whose land, if any, is affected by the writ or order registered.

(3) The registration of a writ or order in the said register ceases to have effect at the expiration of five years from the date of registration, but may be renewed from time to time, and, if renewed, shall have effect for five years from the date of renewal.

(4) No fee shall be charged for the registration of a receiving order in bankruptcy if the application therefor is made by an official receiver.

(5) The registration of a writ or order affecting land may be vacated pursuant to an order of the court or a judge thereof.

(6) When an office copy of an order for discharge, or an acknowledgment of satisfaction in the prescribed form, is lodged with the registrar, he may enter discharge or satisfaction of the registered writ or order to which it refers, and may issue a certificate in the prescribed form of such discharge or satisfaction.

Protection of purchasers against unregistered writs and orders.

7.—(1) Every such writ and order as is mentioned in the last preceding section, and every delivery in execution or other proceeding taken pursuant to any such writ or order, or in obedience thereto, shall be void as against a purchaser of the land unless the writ or order is for the time being registered pursuant to this Part of this Act :

Provided that as respects a receiving order in bankruptcy, this subsection only applies in favour of a purchaser of a legal estate in good faith, for money or money's worth, without notice of an available act of bankruptcy.

(2) The title of a trustee in bankruptcy acquired after the commencement of this Act shall be void as against a purchaser of a legal estate in good faith for money or money's worth without notice of an available act of bankruptcy, claiming under a conveyance made after the date of registration of the petition in bankruptcy as a pending action, unless, at the date of the conveyance, either the registration of the pending action is in force or the receiving order is registered pursuant to this Part of this Act.

PART IV.

DEEDS OF ARRANGEMENT.

Register of deeds of arrangement affecting land.

8.—(1) A deed of arrangement affecting land may be registered in the register of deeds of arrangement affecting land, in the name of the debtor.

(2) The registration may be made on the application of a trustee of the deed, or of a creditor assenting to or taking the benefit of the deed.

(3) The registration may be vacated pursuant to an order of the court or a judge thereof.

(4) The registration of a deed of arrangement in the said register shall cease to have effect at the expiration of five years from the date of registration, but may be renewed from time to time, and if renewed shall have effect for five years from the date of renewal:

Provided that nothing in this subsection shall affect any registration made under any enactment replaced by this Act until the expiration of one year from the commencement of this Act.

Protection of purchasers against unregistered deeds of arrangement.

9. Every deed of arrangement, whether made before or after the commencement of this Act, shall be void as against a purchaser of any land comprised therein or affected thereby unless the deed is for the time being registered pursuant to this Part of this Act.

PART V.

LAND CHARGES.

Register of land charges.

10.—(1) The following classes of charges on, or obligations affecting, land may be registered as land charges in the register of land charges, namely:—

Class A:—A rent, or annuity, or principal money payable by instalments or otherwise, with or without interest, being a charge (otherwise than by deed) upon land created pursuant to the application of some person either before or after the commencement of this Act—

(i) under the provisions of any Act of Parliament, for securing to any person either the money spent by him or the costs, charges and expenses incurred by him under such Act, or the money

advanced by him for repaying the money spent, or the costs, charges, and expenses incurred by another person under the authority of an Act of Parliament; or

(ii) under section thirty-five of the Land Drainage Act, 1861; or — 24 & 25 Vict. c. 133.

(iii) under section twenty or section forty-one of the Agricultural Holdings Act, 1923, or any previous similar enactment; or — 13 & 14 Geo. 5. c. 9.

(iv) under section four or section six of the Tithe Act, 1918; or — 8 & 9 Geo. 5. c. 54.

(v) under section one of the Tithe Annuities Apportionment Act, 1921; or — 11 & 12 Geo. 5. c. 20.

(vi) under paragraph (6) of the Twelfth Schedule to the Law of Property Act, 1922. — 12 & 13 Geo. 5. c. 16.

but not including a rate or scot.

Class B:—A charge on land (not being a local land charge) of any of the kinds described in Class A, created otherwise than pursuant to the application of any person, either before or after the commencement of this Act, but if created before such commencement only if acquired under a conveyance made after such commencement.

Class C:—A mortgage charge or obligation affecting land of any of the following kinds, created either before or after the commencement of this Act, but if created before such commencement only if acquired under a conveyance made after such commencement, namely:—

(i) Any legal mortgage not being a mortgage protected by a deposit of documents relating to the legal estate affected, and (where the whole of the land affected is within the jurisdiction of a local deeds registry) not being registered in the local deeds register (in this Act called a "puisne mortgage"); and

(ii) Any equitable charge acquired by a tenant for life or statutory owner under the Finance Act, 1894, or any other statute, by reason of the discharge by him of any death duties or other liabilities, and to which special priority is given by the statute (in this Act called "a limited owner's charge"); and — 57 & 58 Vict. c. 30.

(iii) Any other equitable charge, which is not secured by a deposit of documents relating to the legal estate affected and does not arise or affect an interest arising under a trust for sale or a settlement and is not included in any other class of land charge (in this Act called "a general equitable charge"); and

(iv) Any contract by an estate owner or by a person entitled at the date of the contract to have a legal estate conveyed to him to convey or create a legal estate, including a contract conferring either expressly or by statutory implication a valid option of purchase, a right of pre-emption or any other like right (in this Act referred to as "an estate contract").

Class D:—A charge or obligation affecting land of any of the following kinds, namely:—

(i) Any charge acquired by the Commissioners of Inland Revenue under any statute passed or hereafter to be passed for death duties leviable or payable on any death which occurs after the commencement of this Act; and

(ii) A covenant or agreement (not being a covenant or agreement made between a lessor and lessee) restrictive of the user of land entered into after the commencement of this Act (in this Act referred to as "a restrictive covenant"); and

(iii) Any easement right or privilege over or affecting land created or arising after the commencement of this Act, and being merely an equitable interest (in this Act referred to as an "equitable easement").

Class E:—An annuity within the meaning of Part II. of this Act created before the commencement of this Act and not registered in the register of annuities.

(2) A land charge shall be registered in the name of the estate owner whose estate is intended to be affected except that, in the case of a land charge registered before the commencement of this Act, under any enactment replaced by this Act, in the name of a person not being the estate owner, it may remain so registered until

it is registered in the name of the estate owner in the prescribed manner.

(3) Where a land charge is not created by an instrument, short particulars of the effect of the charge shall be furnished with the application to register the charge.

(4) Nothing in this section shall be deemed to authorise the Commissioners of Inland Revenue to register a land charge in respect of any claim for death duties unless the duty has become a charge on the land, and the application to register any such charge shall state the duties in respect of which the charge is claimed, and, so far as possible, shall define the land affected, and such particulars shall be entered or referred to in the register.

(5) In the case of a land charge for securing money, created by a company, registration under section ninety-three of the Companies (Consolidation) Act, 1908, shall be sufficient in place of registration under this Act, and shall have effect as if the land charge had been registered under this Act. 8 Edw. 7. c. 69.

(6) In the case of a general equitable charge, restrictive covenant, equitable easement or estate contract affecting land within any of the three ridings, the registration in the prescribed manner in the appropriate local deeds registry of the document creating it shall be sufficient in place of registration under this Act, and the registration shall, as respects such land, have effect as if the land charge created by the document had been registered under this Act.

(7) A puisne mortgage created before the commencement of this Act may be registered as a land charge before any transfer of the mortgage is made.

(8) The registration of a land charge may be vacated pursuant to an order of the court or a judge thereof.

What land charges take effect as legal mortgages.

11. A land charge of Class A or Class B for securing money, created before or after the commencement of this Act, shall, when registered, take effect as if it had been created by a deed of charge by way of legal mortgage, but without prejudice to the priority of the charge.

Expenses of registering land charges.

12.—(1) Except as in this section provided, the expenses incurred by the person entitled to a land charge created before or after the commencement of this Act in causing the charge to be registered in the appropriate register shall be deemed to form part of the land charge, and shall be recoverable by him accordingly on the day for payment of any part of the land charge next after such expenses are incurred.

(2) This section does not apply to the expenses incurred in registering a land charge of Class E or in registering as a land charge a restrictive covenant, an equitable easement or an estate contract.

Protection of purchasers against land charges created after certain dates.

13.—(1) A land charge of Class A created after the thirty-first day of December, eighteen hundred and eighty-eight, shall be void as against a purchaser of the land charged therewith or of any interest in such land, unless the land charge is registered in the register of land charges before the completion of the purchase.

(2) A land charge of Class B, Class C or Class D, created or arising after the commencement of this Act, shall (except as hereinafter provided) be void as against a purchaser of the land charged therewith, or of any interest in such land, unless the land charge is registered in the appropriate register before the completion of the purchase:

Provided that, as respects a land charge of Class D and an estate contract created or entered into after the commencement of this Act, this subsection only applies in favour of a purchaser of a legal estate for money or money's worth.

Protection of purchasers against a land charge (Classes A, B or C) not registered within one year from assignment.

14.—(1) After the expiration of one year from the first conveyance, occurring on or after the first day of January, eighteen hundred and eighty-nine, of a land charge of Class A created before that date, the person entitled thereto shall not be able to recover the land charge or any part thereof as against a purchaser of the land charged therewith or of any interest in the land, unless the land charge is registered in the register of land charges before the completion of the purchase.

(2) After the expiration of one year from the first conveyance, occurring after the commencement of this Act, of a land charge of Class B or Class C created before such commencement, the person entitled thereto shall

not be able to enforce or recover the land charge or any part thereof as against a purchaser of the land charged therewith, or of any interest in the land, unless the land charge is registered in the appropriate register before the completion of the purchase.

PART VI.

LOCAL LAND CHARGES.

Registration of local land charges.

15.—(1) Any charge (hereinafter called "a local land charge") acquired either before or after the commencement of this Act by the council of any administrative county, metropolitan borough, or urban or rural district, or by the corporation of any municipal borough, or by any other local authority under the Public Health Acts, 1875 to 1907, the Metropolis Management Acts, 1855 to 1893, or the Private Street Works Act, 1892, or under any similar statute (public general or local or private) passed or hereafter to be passed, which takes effect by virtue of the statute, shall be registered in the prescribed manner by the proper officer of the local authority, and shall (except as hereinafter mentioned in regard to charges created or arising before the commencement of this Act) be void as against a purchaser for money or money's worth of a legal estate in the land affected thereby, unless registered in the appropriate register before the completion of the purchase. 55 & 56 Vict. c. 57.

(2) Except as expressly provided by this section, the provisions of this Act relating to a land charge of Class B shall apply to a local land charge.

(3) As regards a local land charge, the registration by the proper officer shall (without prejudice to the right of the registrar also to register the charge if and when the prescribed application and information is made and furnished to him) take the place of registration by the registrar, and, in reference thereto, the proper officer of the local authority shall have all the powers and be subject to the same obligations as the registrar has or is subject to in regard to a land charge.

(4) Where a local authority has expended money for any purpose which, when the work is completed and any requisite resolution is passed or order is made, will confer

a charge upon land, the proper officer of the local authority may in the meantime register a local land charge in his register against the land generally, without specifying the amount, but the registration of any such general charge shall be cancelled within the prescribed time not being less than one year after the charge is ascertained and allotted, and thereupon the specific local land charges shall, unless previously discharged, be registered as of the date on which the general charge was registered.

(5) Nothing in this section operates to impose any obligation to register any local land charge created or arising before the commencement of this Act except after the expiration of one year from such commencement or to discharge a purchaser from liability in respect of any local land charge which is not for the time being required to be registered.

(6) Separate rules may be made under this Act in reference to local land charges for giving effect to the provisions of this section and in particular—

(*a*) for prescribing the mode of registration of a general or specific charge;

(*b*) for empowering a local authority, where it has no means (without incurring unreasonable expense) of ascertaining the person against whom a specific charge should be registered, to register the same only against the land affected;

(*c*) for prescribing the proper officer to act as local registrar, and making provision as to official certificates of search to be given by him in reference to subsisting entries in his register;

(*d*) for determining the effect of an official certificate of search in regard to the protection of a purchaser, solicitor, trustee or other person in a fiduciary position, and for prescribing the fees to be paid for any such certificate or for a search;

(*e*) for prescribing the fees, if any, to be paid for the cancellation of an entry in the register.

(7) For the purposes of this section, any prohibition of or restriction on the user or mode of user of land or buildings enforceable by any local authority by virtue of any statute or any order, scheme or instrument made in pursuance of any statute, and any resolution passed by

a local authority to prepare or adopt a town planning scheme, shall be deemed to be a restrictive covenant, and where arising or passed after the commencement of this Act shall be registered by the proper officer as a local land charge :

Provided that any such prohibition, restriction or resolution affecting an area or district may be registered generally against the area or district by reference to the statute, order, scheme or instrument under which it is imposed.

(8) This section applies to local land charges affecting registered as well as unregistered land.

Part VII.

Searches and Official Searches.

Power to make searches.

16. Any person may search in any register or index kept in pursuance of this Act on paying the prescribed fee.

Official certificates of search.

17.—(1) Where any person requires search to be made at the registry for entries of any matters or documents, whereof entries are required or allowed to be made in the registry by this Act, he may on payment of the prescribed fee lodge at the registry a requisition in that behalf.

(2) The registrar shall thereupon make the search required, and shall issue a certificate setting forth the result thereof.

(3) In favour of a purchaser or an intending purchaser, as against persons interested under or in respect of matters or documents whereof entries are required or allowed as aforesaid, the certificate, according to the tenor thereof, shall be conclusive, affirmatively or negatively, as the case may be.

(4) Every requisition under this section shall be in writing, signed by the person making the same, specifying the name against which he desires search to be made, or in relation to which he requires a certificate of result of search, and other sufficient particulars.

(5) If any officer, clerk, or person employed in the registry commits, or is party or privy to, any act of

fraud or collusion, or is wilfully negligent, in the making of or otherwise in relation to any certificate under this section, he shall be guilty of a misdemeanour and shall be liable on conviction on indictment to imprisonment for a term not exceeding two years, or on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding twenty pounds, or to both such imprisonment and fine.

(6) Nothing in this section or in any rule made under this Act affects any right which any person may have independently of this section to make any search in the registry; and every such search may be made as if this section or any such rule had not been enacted or made.

(7) Where a solicitor obtains a certificate of result of search under this section, he shall not be answerable in respect of any loss that may arise from error in the certificate.

(8) Where the solicitor is acting for trustees, executors, agents, or other persons in a fiduciary position, those persons also shall not be so answerable.

(9) Where such persons obtain such a certificate without a solicitor, they shall also be protected in like manner.

PART VIII.

GENERAL.

7 Anne, c. 20, not to apply to certain instruments.

18. It is not necessary to register under the Middlesex Registry Act, 1708—

(*a*) any deed of arrangement, land charge of Class A or other instrument made or created on or after the thirtieth day of July, nineteen hundred; or

(*b*) any land charge (except a puisne mortgage) of Class B, Class C or Class D created or made after the commencement of this Act;

which is or was capable of registration under this Act, or any enactment replaced by this Act.

General rules.

19.—(1) The Lord Chancellor may, with the concurrence of the Treasury as to fees, make such general rules as may be required for carrying this Act into effect, and in particular—

(*a*) as to forms and contents of applications for registration, modes of identifying where practicable the land affected, requisitions for and certificates of official searches, and regulating the practice of the registry in connexion therewith;

(*b*) for providing for the mode of registration of a land charge (and in the case of a puisne mortgage, general equitable charge, estate contract, restrictive covenant or equitable easement by reference to the instrument imposing or creating the charge, interest or restriction, or an extract therefrom) and for the cancellation without an order of court of the registration of a land charge, on the cesser thereof, or with the consent of the person entitled thereto, or on sufficient evidence being furnished that the land charge has been overreached under the provisions of any statute or otherwise.

(2) As respects the registration and re-registration—

(*a*) of a petition in bankruptcy as a pending action; and

(*b*) of a receiving order in bankruptcy as an order affecting land;

rules may be made under and in the manner provided by section one hundred and thirty-two of the Bankruptcy Act, 1914, as if the registration and re-registration were required by that Act. 4 & 5 Geo. 5. c. 59.

Definitions.

20. In this Act, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say:—

(1) "Conveyance" includes a mortgage, charge, lease, assent, vesting declaration, vesting instrument, release and every other assurance of property, or of an interest therein, by any instrument except a will, and "convey" has a corresponding meaning;

(2) "Court" means the High Court of Justice, also the Court of Chancery of the County Palatine of Lancaster or Durham, or the county court where those courts respectively have jurisdiction;

(3) "Deed of arrangement" has the same meaning as in the Deeds of Arrangement Act, 1914;

4 & 5 Geo. 5. c. 47.

(4) "Estate owner," "legal estate," "equitable interest," "trust for sale," "charge by way of legal mortgage," "will," and "death duty" have the same meanings as in the Law of Property Act, 1925;

15 Geo. 5. c. 20.

(5) "Judgment" includes any order, rule or decree having the effect of a judgment;

(6) "Land" includes land of any tenure, and mines and minerals, whether or not severed from the surface, buildings or parts of buildings (whether the division is horizontal, vertical or made in any other way) and other corporeal hereditaments, also a manor, an advowson and a rent and other incorporeal hereditaments, and an easement, right, privilege or benefit in, over or derived from land, but not an undivided share in land, and "hereditament" means real property which, on an intestacy occurring before the commencement of this Act, might have devolved on an heir;

(7) "Land charge" means a land charge of every class and includes a local land charge;

(8) "Purchaser" means any person (including a mortgagee or lessee) who, for valuable consideration, takes any interest in land or in a charge on land; and "purchase" has a corresponding meaning;

(9) "Prescribed" means prescribed by rules made pursuant to this Act;

(10) "Registrar" means the Chief Land Registrar; "registry" means His Majesty's Land Registry; and "registered land" has the same meaning as in the Land Registration Act, 1925;

15 Geo. 5. c. 21.

(11) "Restrictive covenant" includes the conditions, stipulations and restrictions which the Commissioners of Works may, under any statutory power, impose on enfranchised land, after the commencement of this Act, for the protection of the amenities of royal parks, gardens, and palaces;

(12) "The three ridings" has the same meaning as in the Yorkshire Registries Act, 1884; 47 & 48 Vict. c. 54.

(13) "Tenant for life," "statutory owner," "vesting instrument" and "settlement" have the same meanings as in the Settled Land Act, 1925. 15 Geo. 5. c. 18.

Effect of registration under any Part of Act.

21. Where any charge or other matter is capable of registration under two or more Parts of this Act, it shall be sufficient if it is registered under any one Part, and if registered under such one Part the person entitled to the benefit thereof shall not be prejudicially affected by the provisions of another Part by reason only that it was not also registered under that other Part.

Saving of overreaching powers.

22.—(1) The registration of any charge, annuity, or other interest under this Act shall not prevent the charge, annuity, or interest being overreached under any provision contained in any other statute, except where otherwise provided by that other statute.

(2) The registration as a land charge of a puisne mortgage or charge shall not operate to prevent that mortgage or charge being overreached in favour of a prior mortgagee or a person deriving title under him where, by reason of a sale foreclosure or otherwise, the right of the puisne mortgagee or subsequent chargee to redeem is barred.

Application to registered land.

23.—(1) As respects pending actions, writs, orders, deeds of arrangement and land charges (not including local land charges) required to be registered or re-registered after the commencement of this Act, this Act shall not apply thereto, if and so far as they affect registered land, and can be protected under the Land Registration Act, 1925, by lodging or registering a

creditor's notice, restriction, caution, inhibition or other notice.

(2) Nothing in this Act imposes on the registrar any obligation to ascertain whether or not a pending action, writ, order, deed of arrangement or land charge affects registered land.

Repeals.

24. The Acts mentioned in the Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule:

Provided that, without prejudice to the provisions of section thirty-eight of the Interpretation Act, 1889 :— 52 & 53 Vict. c. 63.

(*a*) Nothing in this repeal shall affect any entry in a register made under any enactment so repealed, but the registration shall have effect as if made under this Act ;

(*b*) Nothing in this repeal shall affect any rules made under any enactment so repealed, but all such rules shall continue in force as if made under the corresponding enactment in this Act;

(*c*) References in any document to any enactment repealed by this Act shall be construed as references to this Act or to the corresponding enactment in this Act.

Application to the Crown.

25. The provisions of this Act bind the Crown, but nothing in this Act shall be construed as rendering land owned by or occupied for the purposes of the Crown subject to any charge to which, independently of this Act, it would not be subject.

Short title, commencement and extent.

26.—(1) This Act may be cited as the Land Charges Act, 1925.

(2) This Act shall come into operation on the first day of January, nineteen hundred and twenty-six.

(3) This Act extends to England and Wales only.

SCHEDULE.

Section 24.

REPEALS.

Session and Chapter.	Short Title.	Extent of Repeals.
2 & 3 Vict. c. 11 -	The Judgments Act, 1839.	Sections four, seven, ten and eleven.
13 & 14 Vict. c. 43 -	The Court of Chancery Lancaster Act, 1850.	Section twenty-four.
18 & 19 Vict. c. 15 -	The Judgments Act, 1855.	Sections three, twelve, thirteen and fourteen.
22 & 23 Vict. c. 35 -	The Law of Property Amendment Act, 1859.	Section twenty-two.
23 & 24 Vict. c. 115	The Crown Debts and Judgments Act, 1860.	Section two.
30 & 31 Vict. c. 47 -	The Lis Pendens Act, 1867.	Section two.
45 & 46 Vict. c. 39 -	The Conveyancing Act, 1882.	Section two.
51 & 52 Vict. c. 51 -	The Land Charges Registration and Searches Act, 1888.	The whole Act.
57 & 58 Vict. c. 16 -	The Supreme Court of Judicature (Procedure) Act, 1894.	The reference in the Schedule to the Lis Pendens Act, 1867.
63 & 64 Vict. c. 26 -	The Land Charges Act, 1900.	The whole Act.
12 & 13 Geo. 5. c. 16	The Law of Property Act, 1922.	Sections fourteen and sixteen, and the Seventh Schedule.
15 Geo. 5. c. 5 - -	The Law of Property (Amendment) Act, 1924.	Section six, and the Sixth Schedule.

CHAPTER 23.

An Act to consolidate Enactments relating to the Administration of the Estates of Deceased Persons. [9th April 1925.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I.

DEVOLUTION OF REAL ESTATE.

Devolution of real estate on personal representative.

1.—(1) Real estate to which a deceased person was entitled for an interest not ceasing on his death shall on his death, and notwithstanding any testamentary disposition thereof, devolve from time to time on the personal representative of the deceased, in like manner as before the commencement of this Act chattels real devolved on the personal representative from time to time of a deceased person.

(2) The personal representatives for the time being of a deceased person are deemed in law his heirs and assigns within the meaning of all trusts and powers.

(3) The personal representatives shall be the representative of the deceased in regard to his real estate to which he was entitled for an interest not ceasing on his death as well as in regard to his personal estate.

Application to real estate of law affecting chattels real.

2.—(1) Subject to the provisions of this Act, all enactments and rules of law, and all jurisdiction of any court with respect to the appointment of administrators or to probate or letters of administration, or to dealings before probate in the case of chattels real, and with respect to costs and other matters in the administration of personal estate, in force before the commencement of this Act, and all powers, duties, rights, equities,

obligations, and liabilities of a personal representative in force at the commencement of this Act with respect to chattels real, shall apply and attach to the personal representative and shall have effect with respect to real estate vested in him, and in particular all such powers of disposition and dealing as were before the commencement of this Act exercisable as respects chattels real by the survivor or survivors of two or more personal representatives, as well as by a single personal representative, or by all the personal representatives together, shall be exercisable by the personal representatives or representative of the deceased with respect to his real estate.

(2) Where as respects real estate there are two or more personal representatives, a conveyance of real estate devolving under this Part of this Act shall not, save as otherwise provided as respects trust estates including settled land, be made without the concurrence therein of all such representatives or an order of the court, but where probate is granted to one or some of two or more persons named as executors, whether or not power is reserved to the other or others to prove, any conveyance of the real estate may be made by the proving executor or executors for the time being, without an order of the court, and shall be as effectual as if all the persons named as executors had concurred therein.

(3) Without prejudice to the rights and powers of a personal representative, the appointment of a personal representative in regard to real estate shall not, save as hereinafter provided, affect—

(*a*) any rule as to marshalling or as to administration of assets;

(*b*) the beneficial interest in real estate under any testamentary disposition;

(*c*) any mode of dealing with any beneficial interest in real estate, or the proceeds of sale thereof;

(*d*) the right of any person claiming to be interested in the real estate to take proceedings for the protection or recovery thereof against any person other than the personal representative.

Interpretation of Part I.

3.—(1) In this Part of this Act "real estate" includes—

(i) Chattels real, and land in possession, remainder, or reversion, and every interest in or over land to which a deceased person was entitled at the time of his death; and

(ii) Real estate held on trust (including settled land) or by way of mortgage or security, but not money to arise under a trust for sale of land, nor money secured or charged on land.

(2) A testator shall be deemed to have been entitled at his death to any interest in real estate passing under any gift contained in his will which operates as an appointment under a general power to appoint by will, or operates under the testamentary power conferred by statute to dispose of an entailed interest.

(3) An entailed interest of a deceased person shall (unless disposed of under the testamentary power conferred by statute) be deemed an interest ceasing on his death, but any further or other interest of the deceased in the same property in remainder or reversion which is capable of being disposed of by his will shall not be deemed to be an interest so ceasing.

(4) The interest of a deceased person under a joint tenancy where another tenant survives the deceased is an interest ceasing on his death.

(5) On the death of a corporator sole his interest in the corporation's real and personal estate shall be deemed to be an interest ceasing on his death and shall devolve to his successor.

This subsection applies on the demise of the Crown as respects all property, real and personal, vested in the Crown as a corporation sole.

PART II.

EXECUTORS AND ADMINISTRATORS.

General Provisions.

Summons to executor to prove or renounce.

4. The court shall continue to have power to summon any person named as executor in any will to

Repealed by the Supreme Court of Judicature (Consolidation) Act 1925 sch. (5)

prove or renounce probate of the will, and to do such other things concerning the will as have heretofore been customary.

Cesser of right of executor to prove.

5. Where a person appointed executor by a will—

(i) survives the testator but dies without having taken out probate of the will; or

(ii) is cited to take out probate of the will and does not appear to the citation; or

(iii) renounces probate of the will;

his rights in respect of the executorship shall wholly cease, and the representation to the testator and the administration of his real and personal estate shall devolve and be committed in like manner as if that person had not been appointed executor.

Withdrawal of renunciation.

6.—(1) Where an executor who has renounced probate has been permitted, whether before or after the commencement of this Act, to withdraw the renunciation and prove the will, the probate shall take effect and be deemed always to have taken effect without prejudice to the previous acts and dealings of and notices to any other personal representative who has previously proved the will or taken out letters of administration, and a memorandum of the subsequent probate shall be endorsed on the original probate or letters of administration.

(2) This section applies whether the testator died before or after the commencement of this Act.

Executor of executor represents original testator.

7.—(1) An executor of a sole or last surviving executor of a testator is the executor of that testator.

This provision shall not apply to an executor who does not prove the will of his testator, and, in the case of an executor who on his death leaves surviving him some other executor of his testator who afterwards proves the will of that testator, it shall cease to apply on such probate being granted.

(2) So long as the chain of such representation is unbroken, the last executor in the chain is the executor of every preceding testator.

(3) The chain of such representation is broken by—

(*a*) an intestacy; or

(*b*) the failure of a testator to appoint an executor; or

(*c*) the failure to obtain probate of a will;

but is not broken by a temporary grant of administration if probate is subsequently granted.

(4) Every person in the chain of representation to a testator—

(*a*) has the same rights in respect of the real and personal estate of that testator as the original executor would have had if living; and

(*b*) is, to the extent to which the estate whether real or personal of that testator has come to his hands, answerable as if he were an original executor.

Right of proving executors to exercise powers.

8.—(1) Where probate is granted to one or some of two or more persons named as executors, whether or not power is reserved to the others or other to prove, all the powers which are by law conferred on the personal representative may be exercised by the proving executor or executors for the time being and shall be as effectual as if all the persons named as executors had concurred therein.

(2) This section applies whether the testator died before or after the commencement of this Act.

Vesting of estate of intestate between death and grant of administration.

9. Where a person dies intestate, his real and personal estate, until administration is granted in respect thereof, shall vest in the Probate Judge in the same manner and to the same extent as formerly in the case of personal estate it vested in the ordinary.

Discretion of court as to persons to whom administration is to be granted.

10. In granting letters of administration the court shall have regard to the rights of all persons interested in the real and personal estate of the deceased person, or the proceeds of sale thereof, and in particular administration, with the will annexed, may be granted to a devisee or legatee; and in regard to land settled previously to the death of the deceased, and not by his will,

administration may be granted to the trustees of the settlement; and any such administration may be limited in any way the court thinks fit:

Repealed by the Supreme Court of Judicature (Consolidation) Act 1925 s. 162

Provided that, where the deceased died wholly intestate as to his real and personal estate, administration shall—

(*a*) unless by reason of the insolvency of the estate or other special circumstances the court thinks it expedient to grant administration to some other person, be granted to some one or more of the persons interested under this Act in the residuary estate of the deceased, if an application is made for the purpose;

(*b*) in regard to land settled previously to the death of the deceased, be granted to the trustees, if any, of the settlement if willing to act.

Administration bonds.

11. Probate rules may be made for dispensing with sureties to administration bonds when the grant is made to a trust corporation or to two or more individuals, or in any other proper case.

Repealed as above

Provisions as to the number of personal representatives.

12.—(1) Representation shall not be granted to more than four persons in regard to the same property; and administration shall, if any beneficiary is an infant or a life interest arises under the will or intestacy, be granted either to a trust corporation (with or without an individual) or to not less than two individuals:

Repealed as above s. 160

Provided that the court in granting administration may act on such primâ facie evidence, furnished by the applicant or any other person, as to whether or not there is a minority or life interest, as may be prescribed by probate rules.

(2) If there is only one personal representative (not being a trust corporation) then, during the minority of a beneficiary or the subsistence of a life interest, and until the estate is fully administered, the court may on the application of any person interested or of the guardian, committee or receiver of any such person appoint in accordance with probate rules one or more personal representatives in addition to the original personal representative.

(3) This section applies to grants of representation made after the commencement of this Act whether the testator or intestate died before or after such commencement.

Power to grant representation of real and personal estate separately or together.

13. Representation may be granted in respect of the real estate of a deceased person or any part thereof, and either separately or together with his personal estate, and may also be granted in respect of real estate only where there is no personal estate, or in respect of a trust estate only, and a grant of letters of administration to real estate may be limited in any way the court thinks proper:

Provided that, where the estate of the deceased is known to be insolvent, the grant of representation to the real and personal estate shall not be severed except as regards a trust estate.

Grant of representation to a trust corporation.

14.—(1) Where a trust corporation is appointed an executor in a will, either alone or jointly with another person, the court may grant probate to such corporation either solely or jointly with another person, as the case may require, and the corporation may act as executor accordingly.

(2) Administration may be granted to any trust corporation either solely or jointly with another person, and the corporation may act as administrator accordingly.

(3) Representation shall not be granted to a syndic or nominee on behalf of any trust corporation.

(4) Any officer authorised for the purpose by such corporation or the directors or governing body thereof may swear affidavits, give security, and do any other act or thing which the court may require on behalf of the trust corporation with a view to the grant of representation to the corporation, and the acts of such officer shall be binding on the corporation, and he shall be entitled to be kept indemnified by the corporation in regard to matters so authorised as aforesaid.

(5) Where, at the commencement of this Act, any interest in real or personal estate is vested in a syndic on behalf of any trust corporation acting as the personal representatives of a deceased person, the same shall, by

virtue of this Act, vest in the corporation, and the syndic shall be kept indemnified by the corporation in regard to any interest so vested.

This subsection does not apply to securities registered or inscribed in the name of a syndic, or to land or a charge registered under the Land Registration Act, 1925, in the name of a syndic, but any such securities, land or charge shall be transferred by the syndic to the corporation or as the corporation may direct. 15 Geo. 5. c. 21.

(6) This section has effect whether the testator or intestate died before or after the commencement of this Act; and no such vesting or transfer as aforesaid shall operate as a breach of a covenant or condition against alienation or give rise to a forfeiture.

Executor not to act while administration is in force.

15. Where administration has been granted in respect of any real or personal estate of a deceased person, no person shall have power to bring any action or otherwise act as executor of the deceased person in respect of the estate comprised in or affected by the grant until the grant has been recalled or revoked.

Administration pending litigation.

16.—(1) While any legal proceeding touching the validity of the will of a deceased person, or for obtaining, recalling, or revoking any representation, is pending, the court may grant administration of the real and personal estate of the deceased to an administrator who shall have all the rights and powers of a general administrator, other than the right of distributing the residue of the real and personal estate, but shall be subject to the immediate control of the court and act under its direction.

Repealed by the Supreme Court of Judicature (Consolidation) Act 1925 s. 163

(2) The court may assign to any administrator appointed under this section reasonable remuneration out of the real and personal estate of the deceased or the income thereof.

Continuance of legal proceedings after revocation of temporary administration.

17. If, while any legal proceeding is pending in any court by or against an administrator to whom a temporary administration has been granted, that administration is revoked, that court may order that the proceeding be continued by or against the new personal representative in like manner as if the same had been originally com-

menced by or against him, but subject to such conditions and variations, if any, as that court directs.

Grant of special administration where personal representative is abroad.

Repealed by the Supreme Court of Judicature (Consolidation) Act 1925 See s. 164

18.—(1) If at the expiration of twelve months from the death of a person, any personal representative of the deceased to whom representation has been granted is residing out of the jurisdiction of the High Court, the court may, on the application of any creditor or person interested in the estate of the deceased, grant to him special administration in the form prescribed by probate rules of the real and personal estate of the deceased.

(2) The court may, for the purpose of any legal proceeding to which the administrator under the special administration is a party, order the transfer into court of any money or securities, belonging to the estate of the deceased person, and all persons shall obey any such order.

(3) If the personal representative capable of acting as such returns to and resides within the jurisdiction of the High Court while any legal proceeding to which a special administrator is a party is pending, such representative shall be made a party to the legal proceeding, and the costs of and incidental to the special administration and any such legal proceeding shall be paid by such person and out of such fund as the court in which the proceeding is pending directs.

Administration with will annexed.

Repealed See above

19. Subject to the provisions of this Act as to settled land, administration with the will annexed shall continue to be granted in every case where such grant has heretofore been customary, and in such case the will of the deceased shall be performed and observed in like manner as if probate thereof had been granted to an executor.

Administration during minority of executor.

Repealed See above S. 165

20.—(1) Where an infant is appointed or becomes sole executor of a will, administration with the will annexed shall be granted to his guardian, or to such other person as the court thinks fit, until the infant attains the age of twenty-one years; at which time, and not before, probate of the will may be granted to him.

(2) The appointment in a will by a testator of an infant to be an executor shall not operate to transfer

any interest in the property of the deceased to the infant or to constitute him a personal representative for any purpose unless and until probate is granted to him after he has attained full age.

Rights and liabilities of administrator.

21. Every person to whom administration of the real and personal estate of a deceased person is granted, shall, subject to the limitations contained in the grant, have the same rights and liabilities and be accountable in like manner as if he were the executor of the deceased.

Special Provisions as to Settled Land.

Special executors as respects settled land.

22.—(1) A testator may appoint, and in default of such express appointment shall be deemed to have appointed, as his special executors in regard to settled land, the persons, if any, who are at his death the trustees of the settlement thereof, and probate may be granted to such trustees specially limited to the settled land.

In this subsection "settled land" means land vested in the testator which was settled previously to his death and not by his will.

(2) A testator may appoint other persons either with or without such trustees as aforesaid or any of them to be his general executors in regard to his other property and assets.

Provisions where, as respects settled land, representation is not granted to the trustees of the settlement.

23.—(1) Where settled land becomes vested in a personal representative, not being a trustee of the settlement, upon trust to convey the land to or assent to the vesting thereof in the tenant for life or statutory owner in order to give effect to a settlement created before the death of the deceased and not by his will, or would, on the grant of representation to him, have become so vested, such representative may—

(*a*) before representation has been granted, renounce his office in regard only to such settled land without renouncing it in regard to other property;

(*b*) after representation has been granted, apply to the court for revocation of the grant in regard to the settled land without applying in regard to other property.

(2) Whether such renunciation or revocation is made or not, the trustees of the settlement, or any person beneficially interested thereunder, may apply to the High Court for an order appointing a special or additional personal representative in respect of the settled land, and a special or additional personal representative, if and when appointed under the order, shall be in the same position as if representation had originally been granted to him alone in place of the original personal representative, if any, or to him jointly with the original personal representative, as the case may be, limited to the settled land, but without prejudice to the previous acts and dealings, if any, of the personal representative originally constituted or the effect of notices given to such personal representative.

(3) The court may make such order as aforesaid subject to such security, if any, being given by or on behalf of the special or additional personal representative, as the court may direct, and shall, unless the court considers that special considerations apply, appoint such persons as may be necessary to secure that the persons to act as representatives in respect of the settled land shall, if willing to act, be the same persons as are the trustees of the settlement, and an office copy of the order when made shall be furnished to the Principal Probate Registry for entry, and a memorandum of the order shall be endorsed on the probate or administration.

(4) The person applying for the appointment of a special or additional personal representative shall give notice of the application to the Principal Probate Registry in the manner prescribed.

(5) Rules of court may be made for prescribing for all matters required for giving effect to the provisions of this section, and in particular—

(*a*) for notice of any application being given to the proper officer;

(*b*) for production of orders, probates, and administration to the registry;

(*c*) for the endorsement on a probate or administration of a memorandum of an order, subject or not to any exceptions;

(*d*) for the manner in which the costs are to be borne;

(*e*) for protecting purchasers and trustees and other persons in a fiduciary position, dealing in good faith with or giving notices to a personal representative before notice of any order has been endorsed on the probate or administration or a pending action has been registered in respect of the proceedings.

Power for special personal representatives to dispose of settled land.

24.—(1) The special personal representatives may dispose of the settled land without the concurrence of the general personal representatives, who may likewise dispose of the other property and assets of the deceased without the concurrence of the special personal representatives.

(2) In this section the expression "special personal representatives" means the representatives appointed to act for the purposes of settled land and includes any original personal representative who is to act with an additional personal representative for those purposes.

Duties, Rights, and Obligations.

Duty of personal representative as to inventory.

25. The personal representative of a deceased person shall, when lawfully required so to do, exhibit on oath in the court, a true and perfect inventory and account of the real and personal estate of the deceased, and the court shall have power as heretofore to require personal representatives to bring in inventories.

Rights of action by and against personal representative.

26.—(1) For any debt (including arrears of rent) due to a deceased person, and for any injury to or right in respect of his personal estate in his lifetime, his personal representative shall have the same right of action as the deceased would have had if alive.

(2) The personal representative of a deceased person may maintain for any injury committed to the real estate of the deceased within six months before his

death any action which the deceased could have maintained, but the action must be brought within one year after his death, and any damages recovered in the action shall be part of the personal estate of the deceased.

(3) A personal representative may distrain for arrears of a rentcharge due or accruing to the deceased in his lifetime on the land affected or charged therewith, so long as the land remains in the possession of the person liable to pay the rentcharge or of the persons deriving title under him, and in like manner as the deceased might have done had he been living.

(4) A personal representative may distrain upon land for arrears of rent due or accruing to the deceased in like manner as the deceased might have done had he been living.

Such arrears may be distrained for after the termination of the lease or tenancy as if the term or interest had not determined, if the distress is made—

(*a*) within six months after the termination of the lease or tenancy;

(*b*) during the continuance of the possession of the lessee or tenant from whom the arrears were due.

The statutory enactments relating to distress for rent apply to any distress made pursuant to this subsection.

(5) An action may be maintained against the personal representative of a deceased person for any wrong committed by the deceased within six months before his death to another person in respect of his property, real or personal, but the action shall be brought within six months after the personal representative of the deceased has taken out representation.

Any damages recovered in the proceedings shall be payable as a simple contract debt incurred by the deceased.

(6) Nothing in this section affects any right of action conferred by the Fatal Accidents Act, 1846, as amended by any subsequent enactment.

9 & 10 Vict. c. 93.

Protection of persons acting on probate or administration.

27.—(1) Every person making or permitting to be made any payment or disposition in good faith under a representation shall be indemnified and protected in so doing, notwithstanding any defect or circumstance whatsoever affecting the validity of the representation.

(2) Where a representation is revoked, all payments and dispositions made in good faith to a personal representative under the representation before the revocation thereof are a valid discharge to the person making the same; and the personal representative who acted under the revoked representation may retain and reimburse himself in respect of any payments or dispositions made by him which the person to whom representation is afterwards granted might have properly made.

Liability of person fraudulently obtaining or retaining estate of deceased.

28. If any person, to the defrauding of creditors or without full valuable consideration, obtains, receives or holds any real or personal estate of a deceased person or effects the release of any debt or liability due to the estate of the deceased, he shall be charged as executor in his own wrong to the extent of the real and personal estate received or coming to his hands, or the debt or liability released, after deducting—

(*a*) any debt for valuable consideration and without fraud due to him from the deceased person at the time of his death; and

(*b*) any payment made by him which might properly be made by a personal representative.

Liability of estate of personal representative.

29. Where a person as personal representative of a deceased person (including an executor in his own wrong) wastes or converts to his own use any part of the real or personal estate of the deceased, and dies, his personal representative shall to the extent of the available assets of the defaulter be liable and chargeable in respect of such waste or conversion in the same manner as the defaulter would have been if living.

Provisions applicable where administration granted to nominee

30.—(1) Where the administration of the real and personal estate of any deceased person is granted to a nominee of the Crown (whether the Treasury Solicitor, or a person nominated by the Treasury Solicitor, or any other person), any legal proceeding by or against that nominee for the recovery of the real or personal estate, or

of the Crown.

any part or share thereof, shall be of the same character, and be instituted and carried on in the same manner, and be subject to the same rules of law and equity (including, except as otherwise provided by this Act, the rules of limitation under the statutes of limitation or otherwise), in all respects as if the administration had been granted to such nominee as one of the persons interested under this Act in the estate of the deceased.

(2) An information or other proceeding on the part of His Majesty shall not be filed or instituted, and a petition of right shall not be presented, in respect of the real or personal estate of any deceased person or any part or share thereof, or any claim thereon, except within the same time and subject to the same rules of law and equity within and subject to which a proceeding for the like purposes might be instituted by or against a subject.

(3) The Treasury Solicitor shall not be required, when applying for or obtaining administration of the estate of a deceased person for the use or benefit of His Majesty, to deliver, nor shall the Probate, Divorce and Admiralty Division of the High Court or the Commissioners of Inland Revenue be entitled to receive in connexion with any such application or grant of administration, any affidavit, statutory declaration, account, certificate, or other statement verified on oath; but the Treasury Solicitor shall deliver and the said Division and Commissioners respectively shall accept, in lieu thereof, an account or particulars of the estate of the deceased signed by or on behalf of the Treasury Solicitor.

39 & 40 Vict. c. 18. 10 & 11 Geo. 5. c. 51.

(4) References in sections two, four, six and seven of the Treasury Solicitor Act, 1876, and in subsection (3) of section three of the Duchy of Lancaster Act, 1920, to "personal estate" shall include real estate.

Power to make rules.

31. Provision may be made by rules of court for giving effect to the provisions of this Part of this Act so far as relates to real estate and in particular for adapting the procedure and practice on the grant of letters of administration to the case of real estate.

PART III.

ADMINISTRATION OF ASSETS.

Real and personal

32.—(1) The real and personal estate, whether legal or equitable, of a deceased person, to the extent of

his beneficial interest therein, and the real and personal estate of which a deceased person in pursuance of any general power (including the statutory power to dispose of entailed interests) disposes by his will, are assets for payment of his debts (whether by specialty or simple contract) and liabilities, and any disposition by will inconsistent with this enactment is void as against the creditors, and the court shall, if necessary, administer the property for the purpose of the payment of the debts and liabilities. estate of deceased are assets for payment of debts.

This subsection takes effect without prejudice to the rights of incumbrancers.

(2) If any person to whom any such beneficial interest devolves or is given, or in whom any such interest vests, disposes thereof in good faith before an action is brought or process is sued out against him, he shall be personally liable for the value of the interest so disposed of by him, but that interest shall not be liable to be taken in execution in the action or under the process.

33.—(1) On the death of a person intestate as to any real or personal estate, such estate shall be held by his personal representatives— Trust for sale.

(*a*) as to the real estate upon trust to sell the same; and

(*b*) as to the personal estate upon trust to call in sell and convert into money such part thereof as may not consist of money,

with power to postpone such sale and conversion for such a period as the personal representatives, without being liable to account, may think proper, and so that any reversionary interest be not sold until it falls into possession, unless the personal representatives see special reason for sale, and so also that, unless required for purposes of administration owing to want of other assets, personal chattels be not sold except for special reason.

(2) Out of the net money to arise from the sale and conversion of such real and personal estate (after payment of costs), and out of the ready money of the deceased (so far as not disposed of by his will, if any), the personal representative shall pay all such funeral, testamentary and administration expenses, debts and other liabilities as are properly payable thereout having regard to the rules of administration contained in this Part of this Act, and out of the residue of the said money the personal

representative shall set aside a fund sufficient to provide for any pecuniary legacies bequeathed by the will (if any) of the deceased.

(3) During the minority of any beneficiary or the subsistence of any life interest and pending the distribution of the whole or any part of the estate of the deceased, the personal representatives may invest the residue of the said money, or so much thereof as may not have been distributed, in any investments for the time being authorised by statute for the investment of trust money, with power, at the discretion of the personal representatives, to change such investments for others of a like nature.

(4) The residue of the said money and any investments for the time being representing the same, including (but without prejudice to the trust for sale) any part of the estate of the deceased which may be retained unsold and is not required for the administration purposes aforesaid, is in this Act referred to as "the residuary estate of the intestate."

(5) The income (including net rents and profits of real estate and chattels real after payment of rates, taxes, rent, costs of insurance, repairs and other outgoings properly attributable to income) of so much of the real and personal estate of the deceased as may not be disposed of by his will, if any, or may not be required for the administration purposes aforesaid, may, however such estate is invested, as from the death of the deceased, be treated and applied as income, and for that purpose any necessary apportionment may be made between tenant for life and remainderman.

(6) Nothing in this section affects the rights of any creditor of the deceased or the rights of the Crown in respect of death duties.

(7) Where the deceased leaves a will, this section has effect subject to the provisions contained in the will.

Administration of assets.

34.—(1) Where the estate of a deceased person is insolvent, his real and personal estate shall be administered in accordance with the rules set out in Part I. of the First Schedule to this Act.

(2) The right of retainer of a personal representative and his right to prefer creditors may be exercised in respect of all assets of the deceased, but the right of

retainer shall only apply to debts owing to the personal representative in his own right whether solely or jointly with another person.

Subject as aforesaid, nothing in this Act affects the right of retainer of a personal representative, or his right to prefer creditors.

(3) Where the estate of a deceased person is solvent his real and personal estate shall, subject to rules of court and the provisions hereinafter contained as to charges on property of the deceased, and to the provisions, if any, contained in his will, be applicable towards the discharge of the funeral, testamentary and administration expenses, debts and liabilities payable thereout in the order mentioned in Part II. of the First Schedule to this Act.

Charges on property of deceased to be paid primarily out of the property charged.

35.—(1) Where a person dies possessed of, or entitled to, or, under a general power of appointment (including the statutory power to dispose of entailed interests) by his will disposes of, an interest in property, which at the time of his death is charged with the payment of money, whether by way of legal mortgage, equitable charge or otherwise (including a lien for unpaid purchase money), and the deceased has not by will deed or other document signified a contrary or other intention, the interest so charged shall, as between the different persons claiming through the deceased, be primarily liable for the payment of the charge; and every part of the said interest, according to its value, shall bear a proportionate part of the charge on the whole thereof.

(2) Such contrary or other intention shall not be deemed to be signified—

(*a*) by a general direction for the payment of debts or of all the debts of the testator out of his personal estate, or his residuary real and personal estate, or his residuary real estate; or

(*b*) by a charge of debts upon any such estate;

unless such intention is further signified by words expressly or by necessary implication referring to all or some part of the charge.

(3) Nothing in this section affects the right of a person entitled to the charge to obtain payment or satisfaction thereof either out of the other assets of the deceased or otherwise.

Effect of assent or conveyance by personal representative.

36.—(1) A personal representative may assent to the vesting, in any person who (whether by devise, bequest, devolution, appropriation or otherwise) may be entitled thereto, either beneficially or as a trustee or personal representative, of any estate or interest in real estate to which the testator or intestate was entitled or over which he exercised a general power of appointment by his will, including the statutory power to dispose of entailed interests, and which devolved upon the personal representative.

(2) The assent shall operate to vest in that person the estate or interest to which the assent relates, and, unless a contrary intention appears, the assent shall relate back to the death of the deceased.

(3) The statutory covenants implied by a person being expressed to convey as personal representative, may be implied in an assent in like manner as in a conveyance by deed.

(4) An assent to the vesting of a legal estate shall be in writing, signed by the personal representative, and shall name the person in whose favour it is given and shall operate to vest in that person the legal estate to which it relates; and an assent not in writing or not in favour of a named person shall not be effectual to pass a legal estate.

(5) Any person in whose favour an assent or conveyance of a legal estate is made by a personal representative may require that notice of the assent or conveyance be written or endorsed on or permanently annexed to the probate or letters of administration, at the cost of the estate of the deceased, and that the probate or letters of administration be produced, at the like cost, to prove that the notice has been placed thereon or annexed thereto.

(6) A statement in writing by a personal representative that he has not given or made an assent or conveyance in respect of a legal estate, shall, in favour of a purchaser, but without prejudice to any previous disposition made in favour of another purchaser deriving title mediately or immediately under the personal representative, be sufficient evidence that an assent or conveyance has not been given or made in respect of the legal estate to which the statement relates, unless notice of a previous assent or conveyance affecting that

estate has been placed on or annexed to the probate or administration.

A conveyance by a personal representative of a legal estate to a purchaser accepted on the faith of such a statement shall (without prejudice as aforesaid and unless notice of a previous assent or conveyance affecting that estate has been placed on or annexed to the probate or administration) operate to transfer or create the legal estate expressed to be conveyed in like manner as if no previous assent or conveyance had been made by the personal representative.

A personal representative making a false statement, in regard to any such matter, shall be liable in like manner as if the statement had been contained in a statutory declaration.

(7) An assent or conveyance by a personal representative in respect of a legal estate shall, in favour of a purchaser, unless notice of a previous assent or conveyance affecting that legal estate has been placed on or annexed to the probate or administration, be taken as sufficient evidence that the person in whose favour the assent or conveyance is given or made is the person entitled to have the legal estate conveyed to him, and upon the proper trusts, if any, but shall not otherwise prejudicially affect the claim of any person rightfully entitled to the estate vested or conveyed or any charge thereon.

(8) A conveyance of a legal estate by a personal representative to a purchaser shall not be invalidated by reason only that the purchaser may have notice that all the debts, liabilities, funeral, and testamentary or administration expenses, duties, and legacies of the deceased have been discharged or provided for.

(9) An assent or conveyance given or made by a personal representative shall not, except in favour of a purchaser of a legal estate, prejudice the right of the personal representative or any other person to recover the estate or interest to which the assent or conveyance relates, or to be indemnified out of such estate or interest against any duties, debt, or liability to which such estate or interest would have been subject if there had not been any assent or conveyance.

(10) A personal representative may, as a condition of giving an assent or making a conveyance, require

security for the discharge of any such duties, debt, or liability, but shall not be entitled to postpone the giving of an assent merely by reason of the subsistence of any such duties, debt or liability if reasonable arrangements have been made for discharging the same; and an assent may be given subject to any legal estate or charge by way of legal mortgage.

(11) This section shall not operate to impose any stamp duty in respect of an assent, and in this section "purchaser" means a purchaser for money or money's worth.

(12) This section applies to assents and conveyances made after the commencement of this Act, whether the testator or intestate died before or after such commencement.

Validity of conveyance not affected by revocation of representation.

37.—(1) All conveyances of any interest in real or personal estate made to a purchaser either before or after the commencement of this Act by a person to whom probate or letters of administration have been granted are valid, notwithstanding any subsequent revocation or variation, either before or after the commencement of this Act, of the probate or administration.

(2) This section takes effect without prejudice to any order of the court made before the commencement of this Act, and applies whether the testator or intestate died before or after such commencement.

Right to follow property and powers of the court in relation thereto.

38.—(1) An assent or conveyance by a personal representative to a person other than a purchaser does not prejudice the rights of any person to follow the property to which the assent or conveyance relates, or any property representing the same, into the hands of the person in whom it is vested by the assent or conveyance, or of any other person (not being a purchaser) who may have received the same or in whom it may be vested.

(2) Notwithstanding any such assent or conveyance the court may, on the application of any creditor or other person interested,—

(*a*) order a sale, exchange, mortgage, charge, lease, payment, transfer or other transaction to be carried out which the court considers requisite for the purpose of giving effect to the rights of the persons interested;

(*b*) declare that the person, not being a purchaser, in whom the property is vested is a trustee for those purposes;

(*c*) give directions respecting the preparation and execution of any conveyance or other instrument or as to any other matter required for giving effect to the order;

(*d*) make any vesting order, or appoint a person to convey in accordance with the provisions of the Trustee Act, 1925. 15 Geo. 5. c. 19.

(3) This section does not prejudice the rights of a purchaser or a person deriving title under him, but applies whether the testator or intestate died before or after the commencement of this Act.

Powers of management.

39.—(1) In dealing with the real and personal estate of the deceased his personal representatives shall, for purposes of administration, or during a minority of any beneficiary or the subsistence of any life interest, or until the period of distribution arrives, have—

(i) the same powers and discretions, including power to raise money by mortgage or charge (whether or not by deposit of documents), as a personal representative had before the commencement of this Act, with respect to personal estate vested in him, and such power of raising money by mortgage may in the case of land be exercised by way of legal mortgage; and

(ii) all the powers, discretions and duties conferred or imposed by law on trustees holding land upon an effectual trust for sale (including power to overreach equitable interests and powers as if the same affected the proceeds of sale); and

(iii) all the powers conferred by statute on trustees for sale, and so that every contract entered into by a personal representative shall be binding on and be enforceable against and by the personal representative for the time being of the deceased, and may be carried into effect, or be varied or rescinded by him, and, in the case of a contract entered into by a predecessor, as if it had been entered into by himself.

(2) Nothing in this section shall affect the right of any person to require an assent or conveyance to be made.

(3) This section applies whether the testator or intestate died before or after the commencement of this Act.

Powers of personal representative for raising money, &c.

40.—(1) For giving effect to beneficial interests the personal representative may limit or demise land for a term of years absolute, with or without impeachment for waste, to trustees on usual trusts for raising or securing any principal sum and the interest thereon for which the land, or any part thereof, is liable, and may limit or grant a rentcharge for giving effect to any annual or periodical sum for which the land or the income thereof or any part thereof is liable.

(2) This section applies whether the testator or intestate died before or after the commencement of this Act.

Powers of personal representative as to appropriation.

41.—(1) The personal representative may appropriate any part of the real or personal estate, including things in action, of the deceased in the actual condition or state of investment thereof at the time of appropriation in or towards satisfaction of any legacy bequeathed by the deceased, or of any other interest or share in his property, whether settled or not, as to the personal representative may seem just and reasonable, according to the respective rights of the persons interested in the property of the deceased:

Provided that—

(i) an appropriation shall not be made under this section so as to affect prejudicially any specific devise or bequest;

(ii) an appropriation of property, whether or not being an investment authorised by law or by the will, if any, of the deceased for the investment of money subject to the trust, shall not (save as hereinafter mentioned) be made under this section except with the following consents:—

(*a*) when made for the benefit of a person absolutely and beneficially entitled in possession, the consent of that person;

(*b*) when made in respect of any settled legacy share or interest, the consent of either the trustee thereof, if any (not being also the personal representative), or the

person who may for the time being be entitled to the income:

If the person whose consent is so required as aforesaid is an infant or a lunatic or defective, the consent shall be given on his behalf by his parents or parent, testamentary or other guardian, committee or receiver, or if, in the case of an infant, there is no such parent or guardian, by the court on the application of his next friend;

(iii) no consent (save of such trustee as aforesaid) shall be required on behalf of a person who may come into existence after the time of appropriation, or who cannot be found or ascertained at that time;

(iv) if no committee or receiver of a lunatic or defective has been appointed, then, if the appropriation is of an investment authorised by law or by the will, if any, of the deceased for the investment of money subject to the trust, no consent shall be required on behalf of the lunatic or defective;

(v) if, independently of the personal representative, there is no trustee of a settled legacy share or interest, and no person of full age and capacity entitled to the income thereof, no consent shall be required to an appropriation in respect of such legacy share or interest, provided that the appropriation is of an investment authorised as aforesaid.

(2) Any property duly appropriated under the powers conferred by this section shall thereafter be treated as an authorised investment, and may be retained or dealt with accordingly.

(3) For the purposes of such appropriation, the personal representative may ascertain and fix the value of the respective parts of the real and personal estate and the liabilities of the deceased as he may think fit, and shall for that purpose employ a duly qualified valuer in any case where such employment may be necessary; and may make any conveyance (including an assent) which may be requisite for giving effect to the appropriation.

(4) An appropriation made pursuant to this section shall bind all persons interested in the property of the deceased whose consent is not hereby made requisite.

(5) The personal representative shall, in making the appropriation, have regard to the rights of any person who may thereafter come into existence, or who cannot be found or ascertained at the time of appropriation, and of any other person whose consent is not required by this section.

(6) This section does not prejudice any other power of appropriation conferred by law or by the will (if any) of the deceased, and takes effect with any extended powers conferred by the will (if any) of the deceased, and where an appropriation is made under this section, in respect of a settled legacy, share or interest, the property appropriated shall remain subject to all trusts for sale and powers of leasing, disposition, and management or varying investments which would have been applicable thereto or to the legacy, share or interest in respect of which the appropriation is made, if no such appropriation had been made.

(7) If after any real estate has been appropriated in purported exercise of the powers conferred by this section, the person to whom it was conveyed disposes of it or any interest therein, then, in favour of a purchaser, the appropriation shall be deemed to have been made in accordance with the requirements of this section and after all requisite consents, if any, had been given.

(8) In this section, a settled legacy, share or interest includes any legacy, share or interest to which a person is not absolutely entitled in possession at the date of the appropriation, also an annuity, and "purchaser" means a purchaser for money or money's worth.

(9) This section applies whether the deceased died intestate or not, and whether before or after the commencement of this Act, and extends to property over which a testator exercises a general power of appointment, including the statutory power to dispose of entailed interests, and authorises the setting apart of a fund to answer an annuity by means of the income of that fund or otherwise.

Power to appoint trustees of

42.—(1) Where an infant is absolutely entitled under the will or on the intestacy of a person dying before or after the commencement of this Act (in this

subsection called "the deceased") to a devise or legacy, or to the residue of the estate of the deceased, or any share therein, and such devise, legacy, residue or share is not under the will, if any, of the deceased, devised or bequeathed to trustees for the infant, the personal representatives of the deceased may appoint a trust corporation or two or more individuals not exceeding four (whether or not including the personal representatives or one or more of the personal representatives), to be the trustee or trustees of such devise, legacy, residue or share for the infant, and to be trustees of any land devised or any land being or forming part of such residue or share for the purposes of the Settled Land Act, 1925, and of the statutory provisions relating to the management of land during a minority, and may execute or do any assurance or thing requisite for vesting such devise, legacy, residue or share in the trustee or trustees so appointed. infants' property. 15 Geo. 5. c. 18.

On such appointment the personal representatives, as such, shall be discharged from all further liability in respect of such devise, legacy, residue, or share, and the same may be retained in its existing condition or state of investment, or may be converted into money, and such money may be invested in any authorised investment.

(2) Where a personal representative has before the commencement of this Act retained or sold any such devise, legacy, residue or share, and invested the same or the proceeds thereof in any investments in which he was authorised to invest money subject to the trust, then, subject to any order of the court made before such commencement, he shall not be deemed to have incurred any liability on that account, or by reason of not having paid or transferred the money or property into court.

Obligations of personal representative as to giving possession of land and powers of the court.

43.—(1) A personal representative, before giving an assent or making a conveyance in favour of any person entitled, may permit that person to take possession of the land, and such possession shall not prejudicially affect the right of the personal representative to take or resume possession nor his power to convey the land as if he were in possession thereof, but subject to the interest of any lessee, tenant or occupier in possession or in actual occupation of the land.

(2) Any person who as against the personal representative claims possession of real estate, or the appointment of a receiver thereof, or a conveyance thereof, or an assent to the vesting thereof, or to be registered as proprietor thereof under the Land Registration Act, 1925, may apply to the court for directions with reference thereto, and the court may make such vesting or other order as may be deemed proper, and the provisions of the Trustee Act, 1925, relating to vesting orders and to the appointment of a person to convey, shall apply.

(3) This section applies whether the testator or intestate died before or after the commencement of this Act.

Power to postpone distribution.

44. Subject to the foregoing provisions of this Act, a personal representative is not bound to distribute the estate of the deceased before the expiration of one year from the death.

PART IV.

DISTRIBUTION OF RESIDUARY ESTATE.

Abolition of descent to heir, curtesy, dower and escheat.

45.—(1) With regard to the real estate and personal inheritance of every person dying after the commencement of this Act, there shall be abolished—

(*a*) All existing modes rules and canons of descent, and of devolution by special occupancy or otherwise, of real estate, or of a personal inheritance, whether operating by the general law or by the custom of gavelkind or borough english or by any other custom of any county, locality, or manor, or otherwise howsoever; and

(*b*) Tenancy by the curtesy and every other estate and interest of a husband in real estate as to which his wife dies intestate, whether arising under the general law or by custom or otherwise; and

(*c*) Dower and freebench and every other estate and interest of a wife in real estate as to which her husband dies intestate, whether arising under the general law or by custom or otherwise: Provided that where a right (if any) to freebench or other like right has attached before the commencement of this Act which cannot be barred by a testamentary or other disposition made by

the husband, such right shall, unless released, remain in force as an equitable interest; and

(*d*) Escheat to the Crown or the Duchy of Lancaster or the Duke of Cornwall or to a mesne lord for want of heirs.

(2) Nothing in this section affects the descent or devolution of an entailed interest.

Succession to real and personal estate on intestacy.

46.—(1) The residuary estate of an intestate shall be distributed in the manner or be held on the trusts mentioned in this section, namely :—

(i) If the intestate leaves a husband or wife (with or without issue) the surviving husband or wife shall take the personal chattels absolutely, and in addition the residuary estate of the intestate (other than the personal chattels) shall stand charged with the payment of a net sum of one thousand pounds, free of death duties and costs, to the surviving husband or wife with interest thereon from the date of the death at the rate of five pounds per cent. per annum until paid or appropriated, and, subject to providing for that sum and the interest thereon, the residuary estate (other than the personal chattels) shall be held—

(*a*) If the intestate leaves no issue, upon trust for the surviving husband or wife during his or her life;

(*b*) If the intestate leaves issue, upon trust, as to one half, for the surviving husband or wife during his or her life, and, subject to such life interest, on the statutory trusts for the issue of the intestate; and, as to the other half, on the statutory trusts for the issue of the intestate, but if those trusts fail or determine in the lifetime of a surviving husband or wife of the intestate, then upon trust for the surviving husband or wife during the residue of his or her life:

(ii) If the intestate leaves issue but no husband or wife, the residuary estate of the intestate shall be held on the statutory trusts for the issue of the intestate;

(iii) If the intestate leaves no issue but both parents, then, subject to the interests of a surviving husband or wife, the residuary estate of the intestate shall be held in trust for the father and mother in equal shares absolutely;

(iv) If the intestate leaves no issue but one parent, then, subject to the interests of a surviving husband or wife, the residuary estate of the intestate shall be held in trust for the surviving father or mother absolutely;

(v) If the intestate leaves no issue or parent, then, subject to the interests of a surviving husband or wife, the residuary estate of the intestate shall be held in trust for the following persons living at the death of the intestate, and in the following order and manner, namely:—

First, on the statutory trusts for the brothers and sisters of the whole blood of the intestate; but if no person takes an absolutely vested interest under such trusts; then

Secondly, on the statutory trusts for the brothers and sisters of the half blood of the intestate; but if no person takes an absolutely vested interest under such trusts; then

Thirdly, for the grandparents of the intestate and, if more than one survive the intestate, in equal shares; but if there is no member of this class; then

Fourthly, on the statutory trusts for the uncles and aunts of the intestate (being brothers or sisters of the whole blood of a parent of the intestate); but if no person takes an absolutely vested interest under such trusts; then

Fifthly, on the statutory trusts for the uncles and aunts of the intestate (being brothers or sisters of the half blood of a parent of the intestate); but if no person takes an absolutely vested interest under such trusts; then

Sixthly, for the surviving husband or wife of the intestate absolutely;

(vi) In default of any person taking an absolute interest under the foregoing provisions, the residuary estate of the intestate shall belong to the Crown or to the Duchy of Lancaster or to the Duke of Cornwall for the time being, as the case may be, as bona vacantia, and in lieu of any right to escheat.

The Crown or the said Duchy or the said Duke may (without prejudice to the powers reserved by section nine of the Civil List Act, 1910, or any other powers), out of the whole or any part of the property devolving on them respectively, provide, in accordance with the existing practice, for dependants, whether kindred or not, of the intestate, and other persons for whom the intestate might reasonably have been expected to make provision. 10 Edw. 7. and 1 Geo. 5. c. 28.

(2) A husband and wife shall for all purposes of distribution or division under the foregoing provisions of this section be treated as two persons.

Statutory trusts in favour of issue and other classes of relatives of intestate.

47.—(1) Where under this Part of this Act the residuary estate of an intestate, or any part thereof, is directed to be held on the statutory trusts for the issue of the intestate, the same shall be held upon the following trusts, namely:—

(i) In trust, in equal shares if more than one, for all or any the children or child of the intestate, living at the death of the intestate, who attain the age of twenty-one years or marry under that age, and for all or any of the issue living at the death of the intestate who attain the age of twenty-one years or marry under that age of any child of the intestate who predeceases the intestate, such issue to take through all degrees, according to their stocks, in equal shares if more than one, the share which their parent would have taken if living at the death of the intestate, and so that no issue shall take whose parent is living at the death of the intestate and so capable of taking;

(ii) The statutory power of advancement, and the statutory provisions which relate to maintenance and accumulation of surplus income, shall apply, but when an infant marries such infant

shall be entitled to give valid receipts for the income of the infant's share or interest;

(iii) Where the property held on the statutory trusts for issue is divisible into shares, then any money or property which, by way of advancement or on the marriage of a child of the intestate, has been paid to such child by the intestate or settled by the intestate for the benefit of such child (including any life or less interest and including property covenanted to be paid or settled) shall, subject to any contrary intention expressed or appearing from the circumstances of the case, be taken as being so paid or settled in or towards satisfaction of the share of such child or the share which such child would have taken if living at the death of the intestate, and shall be brought into account, at a valuation (the value to be reckoned as at the death of the intestate), in accordance with the requirements of the personal representatives;

(iv) The personal representatives may permit any infant contingently interested to have the use and enjoyment of any personal chattels in such manner and subject to such conditions (if any) as the personal representatives may consider reasonable, and without being liable to account for any consequential loss.

(2) If the trusts in favour of the issue of the intestate fail by reason of no child or other issue attaining an absolutely vested interest—

(*a*) the residuary estate of the intestate and the income thereof and all statutory accumulations, if any, of the income thereof, or so much thereof as may not have been paid or applied under any power affecting the same, shall go, devolve and be held under the provisions of this Part of this Act as if the intestate had died without leaving issue living at the death of the intestate;

(*b*) references in this Part of this Act to the intestate "leaving no issue" shall be construed as "leaving no issue who attain an absolutely vested interest";

(*c*) references in this Part of this Act to the intestate "leaving issue" or "leaving a child or other issue" shall be construed as "leaving issue who attain an absolutely vested interest."

(3) Where under this Part of this Act the residuary estate of an intestate or any part thereof is directed to be held on the statutory trusts for any class of relatives of the intestate, other than issue of the intestate, the same shall be held on trusts corresponding to the statutory trusts for the issue of the intestate (other than the provision for bringing any money or property into account) as if such trusts (other than as aforesaid) were repeated with the substitution of references to the members or member of that class for references to the children or child of the intestate.

Powers of personal representative in respect of interests of surviving spouse.

48.—(1) Where a surviving husband or wife is entitled to a life interest in the residuary estate or any part thereof the personal representative may, either with the consent of any such tenant for life (not being also the sole personal representative) or, where the tenant for life is the sole personal representative, with the leave of the court, purchase or redeem such life interest (while it is in possession) by paying the capital value thereof (reckoned according to tables selected by the personal representative) to the tenant for life or the persons deriving title under him or her and the costs of the transaction, and thereupon the residuary estate of the intestate may be dealt with or distributed free from such life interest.

(2) The personal representatives may raise—

(*a*) the net sum of one thousand pounds or any part thereof and the interest thereon payable to the surviving husband or wife of the intestate on the security of the whole or any part of the residuary estate of the intestate (other than the personal chattels), so far as that estate may be sufficient for the purpose or the said sum and interest may not have been satisfied by an appropriation under the statutory power available in that behalf; and

(*b*) in like manner the capital sum, if any, required for the purchase or redemption of the

life interest of the surviving husband or wife of the intestate, or any part thereof not satisfied by the application for that purpose of any part of the residuary estate of the intestate;

and in either case the amount, if any, properly required for the payment of the costs of the transaction.

Application to cases of partial intestacy.

49. Where any person dies leaving a will effectively disposing of part of his property, this Part of this Act shall have effect as respects the part of his property not so disposed of subject to the provisions contained in the will and subject to the following modifications:—

(*a*) The requirements as to bringing property into account shall apply to any beneficial interests acquired by any issue of the deceased under the will of the deceased, but not to beneficial interests so acquired by any other persons:

(*b*) The personal representative shall, subject to his rights and powers for the purposes of administration, be a trustee for the persons entitled under this Part of this Act in respect of the part of the estate not expressly disposed of unless it appears by the will that the personal representative is intended to take such part beneficially.

Construction of documents.

50.—(1) References to any Statutes of Distribution in an instrument inter vivos made or in a will coming into operation after the commencement of this Act, shall be construed as references to this Part of this Act; and references in such an instrument or will to statutory next of kin shall be construed, unless the context otherwise requires, as referring to the persons who would take beneficially on an intestacy under the foregoing provisions of this Part of this Act.

(2) Trusts declared in an instrument inter vivos made, or in a will coming into operation, before the commencement of this Act by reference to the Statutes of Distribution, shall, unless the contrary thereby appears, be construed as referring to the enactments (other than the Intestates' Estates Act, 1890) relating to the distribution of effects of intestates which were in force immediately before the commencement of this Act.

53 & 54 Vict. c. 29

51.—(1) Nothing in this Part of this Act affects the right of any person to take beneficially, by purchase, as heir either general or special. Savings.

(2) The foregoing provisions of this Part of this Act do not apply to any beneficial interest in real estate (not including chattels real) to which a lunatic or defective living and of full age at the commencement of this Act, and unable, by reason of his incapacity, to make a will, who thereafter dies intestate in respect of such interest without having recovered his testamentary capacity, was entitled at his death, and any such beneficial interest (not being an interest ceasing on his death) shall, without prejudice to any will of the deceased, devolve in accordance with the general law in force before the commencement of this Act applicable to freehold land, and that law shall, notwithstanding any repeal, apply to the case.

For the purposes of this subsection, a lunatic or defective who dies intestate as respects any beneficial interest in real estate shall not be deemed to have recovered his testamentary capacity unless his committee or receiver has been discharged.

(3) Where an infant dies after the commencement of this Act without having been married, and independently of this subsection he would, at his death, have been equitably entitled under a settlement (including a will) to a vested estate in fee simple or absolute interest in freehold land, or in any property settled to devolve therewith or as freehold land, such infant shall be deemed to have had an entailed interest, and the settlement shall be construed accordingly.

(4) This Part of this Act does not affect the devolution of an entailed interest as an equitable interest.

52. In this Part of this Act "real and personal estate" means every beneficial interest (including rights of entry and reverter) of the intestate in real and personal estate which (otherwise than in right of a power of appointment or of the testamentary power conferred by statute to dispose of entailed interests) he could, if of full age and capacity, have disposed of by his will. Interpretation of Part IV.

PART V.

SUPPLEMENTAL.

General savings.

53.—(1) Nothing in this Act shall derogate from the powers of the High Court which exist independently of this Act or alter the distribution of business between the several divisions of the High Court, or operate to transfer any jurisdiction from the High Court to any other court.

(2) Nothing in this Act shall affect any unrepealed enactment in a public general Act dispensing with probate or administration as respects personal estate not including chattels real.

(3) Nothing in this Act shall—

(*a*) alter any death duty payable in respect of real estate or impose any new duty thereon:

(*b*) render any real estate liable to legacy duty or exempt it from succession duty:

(*c*) alter the incidence of any death duties.

Application of Act.

54. Save as otherwise expressly provided, this Act does not apply in any case where the death occurred before the commencement of this Act.

Definitions.

55. In this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say:—

(1) (i) "Administration" means, with reference to the real and personal estate of a deceased person, letters of administration, whether general or limited, or with the will annexed or otherwise:

(ii) "Administrator" means a person to whom administration is granted:

(iii) "Conveyance" includes a mortgage, charge by way of legal mortgage, lease, assent, vesting, declaration, vesting instrument, disclaimer, release and every other assurance of property or of an interest therein by any instrument, except a will, and "convey" has a corresponding meaning, and "disposition" includes a "conveyance" also a devise bequest and an appointment of property contained in a will, and "dispose of" has a corresponding meaning:

(iv) "the Court" means the High Court, and also the county court, where that court has jurisdiction, and as respects the administration of estates "court" also includes the Court of Chancery of the County Palatine of Lancaster or the Court of Chancery of the County Palatine of Durham where those courts respectively have jurisdiction:

(v) "Income" includes rents and profits:

(vi) "Intestate" includes a person who leaves a will but dies intestate as to some beneficial interest in his real or personal estate:

(vii) "Legal estates" mean the estates charges and interests in or over land (subsisting or created at law) which are by statute authorised to subsist or to be created at law; and "equitable interests" mean all other interests and charges in or over land or in the proceeds of sale thereof:

(viii) "Lunatic" includes a lunatic whether so found or not, and in relation to a lunatic not so found; "committee" includes a person on whom the powers of a committee are conferred under section one of the Lunacy Act, 1908; and "defective" includes every person affected by the provisions of section one hundred and sixteen of the Lunacy Act, 1890, as extended by section sixty-four of the Mental Deficiency Act, 1913, and for whose benefit a receiver has been appointed: 8 Edw. 7. c. 47. 53 & 54 Vict. c. 5. 3 & 4 Geo. 5. c. 28.

(ix) "Pecuniary legacy" includes an annuity, a general legacy, a demonstrative legacy so far as it is not discharged out of the designated property, and any other general direction by a testator for the payment of money, including all death duties free from which any devise, bequest, or payment is made to take effect:

(x) "Personal chattels" mean carriages, horses, stable furniture and effects (not used for business purposes), motor cars and accessories (not used for business purposes), garden effects, domestic animals, plate,

plated articles, linen, china, glass, books, pictures, prints, furniture, jewellery, articles of household or personal use or ornament, musical and scientific instruments and apparatus, wines, liquors and consumable stores, but do not include any chattels used at the death of the intestate for business purposes nor money or securities for money:

(xi) "Personal representative" means the executor, original or by representation, or administrator for the time being of a deceased person, and as regards any liability for the payment of death duties includes any person who takes possession of or intermeddles with the property of a deceased person without the authority of the personal representatives or the court, and "executor" includes a person deemed to be appointed executor as respects settled land:

(xii) "Possession" includes the receipt of rents and profits or the right to receive the same, if any:

(xiii) "Prescribed" means prescribed by rules of court or by probate rules made pursuant to this Act:

(xiv) "Probate" means the probate of a will:

(xv) "Probate judge" means the President of the Probate, Divorce and Admiralty Division of the High Court:

(xvi) "Probate rules" mean rules and orders made by the Probate Judge for regulating the procedure and practice of the High Court in regard to non-contentious or common form probate business:

(xvii) "Property" includes a thing in action and any interest in real or personal property:

(xviii) "Purchaser" means a lessee, mortgagee or other person who in good faith acquires an interest in property for valuable consideration, also an intending purchaser and "valuable consideration" includes marriage, but does not include a nominal consideration in money:

(xix) "Real estate" save as provided in Part IV. of this Act means real estate, including chattels real, which by virtue of Part I. of this Act devolves on the personal representative of a deceased person:

(xx) "Representation" means the probate of a will and administration, and the expression "taking out representation" refers to the obtaining of the probate of a will or of the grant of administration:

(xxi) "Rent" includes a rent service or a rentcharge, or other rent, toll, duty, or annual or periodical payment in money or money's worth, issuing out of or charged upon land, but does not include mortgage interest; and "rentcharge" includes a fee farm rent:

(xxii) "Rules of Court" include, in relation to non-contentious or common form probate business, probate rules:

(xxiii) "Securities" include stocks, funds, or shares:

(xxiv) "Tenant for life," "statutory owner," "land," "settled land," "settlement," "trustees of the settlement," "term of years absolute," "death duties," and "legal mortgage," have the same meanings as in the Settled Land Act, 1925, and "entailed interest" and "charge by way of legal mortgage" have the same meanings as in the Law of Property Act, 1925: 15 Geo. 5. c. 18. 15 Geo. 5. c. 20.

(xxv) "Treasury solicitor" means the solicitor for the affairs of His Majesty's Treasury, and includes the solicitor for the affairs of the Duchy of Lancaster:

(xxvi) "Trust corporation" means the public trustee or a corporation either appointed by the court in any particular case to be a trustee or entitled by rules made under subsection (3) of section four of the Public Trustee Act, 1906, to act as custodian trustee: 6 Edw. 7. c. 55.

(xxvii) "Trust for sale," in relation to land, means an immediate binding trust for sale, whether

or not exercisable at the request or with the consent of any person, and with or without a power at discretion to postpone the sale; and "power to postpone a sale" means power to postpone in the exercise of a discretion:

(xxviii) "Will" includes codicil.

(2) References to a child or issue living at the death of any person include a child or issue en ventre sa mere at the death.

(3) References to the estate of a deceased person include property over which the deceased exercises a general power of appointment (including the statutory power to dispose of entailed interests) by his will.

Repeal.

56. The Acts mentioned in the Second Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule, but as respects the Acts mentioned in Part I. of that Schedule only so far as they apply to deaths occurring after the commencement of this Act.

Application to Crown.

57.—(1) The provisions of this Act bind the Crown and the Duchy of Lancaster, and the Duke of Cornwall for the time being, as respects the estates of persons dying after the commencement of this Act, but not so as to affect the time within which proceedings for the recovery of real or personal estate vesting in or devolving on His Majesty in right of His Crown, or His Duchy of Lancaster, or on the Duke of Cornwall, may be instituted.

(2) Nothing in this Act in any manner affects or alters the descent or devolution of any property for the time being vested in His Majesty either in right of the Crown or of the Duchy of Lancaster or of any property for the time being belonging to the Duchy of Cornwall.

Short title, commencement and extent.

58.—(1) This Act may be cited as the Administration of Estates Act, 1925.

(2) This Act shall come into operation on the first day of January, nineteen hundred and twenty-six.

(3) This Act extends to England and Wales only.

SCHEDULES.

FIRST SCHEDULE.

Section 34.

Part I.

Rules as to Payment of Debts where the Estate is insolvent.

1. The funeral, testamentary, and administration expenses have priority.

2. Subject as aforesaid, the same rules shall prevail and be observed as to the respective rights of secured and unsecured creditors and as to debts and liabilities provable and as to the valuation of annuities and future and contingent liabilities respectively, and as to the priorities of debts and liabilities as may be in force for the time being under the law of bankruptcy with respect to the assets of persons adjudged bankrupt.

Part II.

Order of Application of Assets where the Estate is solvent.

1. Property of the deceased undisposed of by will, subject to the retention thereout of a fund sufficient to meet any pecuniary legacies.

2. Property of the deceased not specifically devised or bequeathed but included (either by a specific or general description) in a residuary gift, subject to the retention out of such property of a fund sufficient to meet any pecuniary legacies, so far as not provided for as aforesaid.

3. Property of the deceased specifically appropriated or devised or bequeathed (either by a specific or general description) for the payment of debts.

4. Property of the deceased charged with, or devised or bequeathed (either by a specific or general description) subject to a charge for the payment of debts.

5. The fund, if any, retained to meet pecuniary legacies.

1ST SCH. —*cont.*

6. Property specifically devised or bequeathed, rateably according to value.

7. Property appointed by will under a general power, including the statutory power to dispose of entailed interests, rateably according to value.

8. The following provisions shall also apply—

(*a*) The order of application may be varied by the will of the deceased.

(*b*) This part of this Schedule does not affect the liability of land to answer the death duty imposed thereon in exoneration of other assets.

Section 56.

SECOND SCHEDULE.

ENACTMENTS REPEALED.

PART I.

REPEALS NOT AFFECTING CASES WHERE THE DEATH OCCURRED BEFORE THE COMMENCEMENT OF THIS ACT.

Session and Chapter.	Title or Short Title.	Extent of Repeal.
13 Edw. 1 (*Stat. Westm. sec.*) c. 19.	The ordinary chargeable to pay the debts of an intestate.	The whole chapter.
13 Edw. 1. (*Stat. Westm. sec.*) c. 23.	Writ of accompt for executors -	The whole chapter.
13 Edw. 1 (*Stat. Westm. sec.*) c. 34.	Dower forfeited by elopement with adulterer.	From "and if a "wife willingly "leave her hus- "band" to "in "which case she "shall be re- "stored to her "action."
25 Edw. 1. c. 7.	Widow; her marriage estate; quarantine; estovers; dower; re-marriage.	The whole chapter.
25 Edw. 1. c. 18.	The King's tenant, his debtor -	From "and the residue" to "reasonable parts."

2ND SCH. —*cont.*

Session and Chapter.	Title or Short Title.	Extent of Repeal.
Statute (*temp. incert.*).	Statute concerning tenants by the Curtesy of England.	The whole statute.
Statute Prerogativa Regis (*temp. incert.*) c. 18.	Customs of Gloucester and Kent.	From "Nevertheless it is used" to the end of the chapter.
4 Edw. 3. c. 7. -	Executors shall have an action of trespass for a wrong done to their testator.	The whole chapter.
25 Edw. 3. st. 5. c. 5.	Executors of executors shall have the same rights and duties as the first executors.	The whole chapter.
31 Edw. 3. st. 1. c. 11.	The ordinary shall commit administration upon an intestacy. The administrators shall have the same rights and charges as executors.	The whole chapter.
21 Hen. 8. c. 4.	An Acte concerninge Executors of Laste Willes and Testamente.	The whole Act.
21 Hen. 8. c. 5.	An Acte concerninge Fynes & sōmes of Moneye to be taken by the Ministers of Busshops and other Ordinaries of Holye Churche for the probate of Testamte.	The whole Act.
32 Hen. 8. c. 37	For recoving of Arrerage by Executors and Administrators.	Sections one, two and three.
1 Edw. 6. c. 12	An Acte for the repeale of certaine statutes concerninge treasons, felonyes, &c.	Section sixteen.
5 & 6 Edw. 6. c. 11.	An Acte for the punyshment of dyvse treasons.	Section eleven.
5 & 6 Edw. 6. c. 12.	An Acte for the declaracon of a statute made for the marriage of Priests and for the legittimacon of their children.	Section two.
43 Eliz. c. 8. -	An Acte against fraudulent administracon of intestates goodes.	The whole Act.

2ND SCH. —*cont.*

Session and Chapter.	Title or Short Title.	Extent of Repeal.
12 Chas. 2. c. 24.	An Acte taking away the Court of Wards and Liveries and Tenures in Capite and by Knights Service and Purveyance and for settling a Revenue upon His Majesty in Lieu thereof.	Section seven from "tenures in franke almoigne" to "nor to take away."
22 & 23 Chas. 2. c. 10.	The Statute of Distribution -	The whole Act.
29 Chas. 2. c. 3.	The Statute of Frauds - -	Sections ten, eleven, twenty-three, twenty-four, so far as unrepealed.
30 Chas. 2. c. 7.	An Act to enable creditors to recover their debts of the executors and administrators of executors in their own wrong.	The whole Act.
1 Jas. 2. c. 17. -	An Act for reviveing and continuance of severall Acts of Parlyament therein mentioned.	The whole Act.
4 Will. & Mar. c. 24.	An Act for reviving, cõtinuing and explaining several laws therein mentioned that are expired and neare expiring.	Section twelve.
38 Geo. 3. c. 87.	The Administration of Estates Act, 1798.	The whole Act.
11 Geo. 4 & 1 Will. 4. c. 40.	The Executors Act, 1830 - -	The whole Act.
11 Geo. 4. & 1 Will. 4. c. 47.	The Debts Recovery Act, 1830 -	The whole Act.
3 & 4 Will. 4. c. 27.	The Real Property Limitation Act, 1833.	Section forty-one.
3 & 4 Will. 4. c. 42.	The Civil Procedure Act, 1833 -	Sections two, thirty-seven and thirty-eight.
3 & 4 Will. 4. c. 74.	The Fines and Recoveries Act, 1833.	In section twenty-seven the words "no woman in "respect of her "dower and"

2ND SCH. —*cont.*

Session and Chapter.	Title or Short Title.	Extent of Repeal.
3 & 4 Will. 4. c. 104.	The Administration of Estates Act, 1833.	The whole Act.
3 & 4 Will. 4. c. 105.	The Dower Act, 1833 - -	The whole Act.
2 & 3 Vict. c. 60.	The Debts Recovery Act, 1839 -	The whole Act.
11 & 12 Vict. c. 87.	The Debts Recovery Act, 1848 -	The whole Act.
17 & 18 Vict. c. 113.	The Real Estate Charges Act, 1854.	The whole Act.
20 & 21 Vict. c. 77.	The Court of Probate Act, 1857.	Sections seventy to eighty.
21 & 22 Vict. c. 95.	The Court of Probate Act, 1858 -	Sections sixteen, eighteen, nineteen, twenty-one, and twenty-two.
22 & 23 Vict. c. 35.	The Law of Property Amendment Act, 1859.	Sections fourteen to eighteen.
30 & 31 Vict. c. 69.	The Real Estate Charges Act, 1867.	The whole Act.
32 & 33 Vict. c. 46.	The Administration of Estates Act, 1869.	The whole Act.
38 & 39 Vict. c. 77.	The Supreme Court of Judicature Act, 1875.	Section ten.
40 & 41 Vict. c. 34.	The Real Estate Charges Act, 1877.	The whole Act.
47 & 48 Vict. c. 71.	The Intestates Estates Act, 1884	The whole Act.
53 & 54 Vict. c. 29.	The Intestates Estates Act, 1890.	The whole Act.
4 & 5 Geo. 5. c. 59.	The Bankruptcy Act, 1914 -	Section one hundred and thirty.

2ND SCH. —*cont.*

PART II.

REPEALS APPLYING WHERE THE DEATH OCCURRED BEFORE OR AFTER THE COMMENCEMENT OF THIS ACT.

Session and Chapter.	Title or Short Title.	Extent of Repeal.
10 & 11 Geo. 5. c. 81.	The Administration of Justice Act, 1920.	Section seventeen.
12 & 13 Geo. 5. c. 16.	The Law of Property Act, 1922 -	Subsection (7) of section one hundred and ten: Part VIII. except section one hundred and fifty-two; and Part IX. except subsection (13) of section one hundred and fifty-six; and sub-paragraphs (2) and (3) of paragraph five of the Sixth Schedule.
15 Geo. 5. c. 5.	The Law of Property (Amendment) Act, 1924.	Section seven and the Seventh Schedule.

CHAPTER 24.

An Act to consolidate the Universities and College Estates Acts, 1858 to 1898, and enactments amending those Acts.

[9th April 1925.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present

Parliament assembled, and by the authority of the same, as follows :—

Universities and Colleges to which the Act applies.

1. The universities and colleges to which this Act applies are the Universities of Oxford, Cambridge and Durham, and the colleges or halls in those universities, and the Colleges of Saint Mary of Winchester, near Winchester, and of King Henry the Sixth at Eton, and for the purposes of this Act the Cathedral or House of Christ Church in Oxford shall be considered to be a college in the University of Oxford.

Sale and Exchange.

Powers of sale and exchange.

2.—(1) A university or college—

(i) May sell any land belonging to the university or college, or any easement, right or privilege of any kind, over or in relation to such land; and

(ii) In the case of a manor belonging to the university or college, may sell the seignory of any freehold land within the manor, with or without any exception or reservation of all or any mines or minerals, or of any rights or powers relative to mining purposes, so as in every such case to effect an extinguishment of the manorial incidents; and

(iii) May make an exchange of any land belonging to the university or college, or of any easement, right, or privilege of any kind, whether or not newly created, over or in relation to such land, for other land, or for any easement, right or privilege of any kind, whether or not newly created, over or in relation to other land, including an exchange in consideration of money paid for equality of exchange.

(2) A sale or exchange under this section or any other provision of this Act shall not be made except with the consent of the Minister.

(3) On a sale or exchange by a university or college under the powers of this Act, any restriction or reservation with respect to building on or other user of land, or

with respect to mines and minerals, or with respect to or for the purpose of the more beneficial working thereof, or with respect to any other thing, may be imposed or reserved and made binding, as far as the law permits, by covenant, condition or otherwise, on the university or college and land belonging to it, or on the other party and any land sold or given in exchange to him.

Regulations respecting sales.

3.—(1) Save as hereinafter provided, every sale shall be made for the best consideration in money that can reasonably be obtained.

(2) A sale may be made in consideration wholly or partially of a perpetual rent, or a terminable rent consisting of principal and interest combined, payable yearly or half yearly to be secured upon the land sold, or the land to which the easement, right or privilege sold is to be annexed in enjoyment, or an adequate part thereof:

In the case of a terminable rent, the conveyance shall distinguish the part attributable to principal and that attributable to interest; and the part attributable to principal shall, when received by the university or college, be paid to the Minister and be capital money:

Provided that, unless the part of the terminable rent attributable to interest varies according to the amount of the principal repaid, the Minister shall, during the subsistence of the rent, accumulate the income of the said capital money in the way of compound interest by investing the same and the resulting income thereof in securities authorised for the investment of capital money and add the accumulations to capital.

(3) The rent to be reserved on any such sale shall be the best rent that can reasonably be obtained, regard being had to any money paid as part of the consideration, or laid out, or to be laid out, for the benefit of any land belonging to the university or college, and generally to the circumstances of the case, but a peppercorn rent, or a nominal or other rent less than the rent ultimately payable, may be made payable during any period not exceeding five years from the date of the conveyance.

(4) Where a sale is made in consideration of a rent, the following provisions shall have effect:—

(i) The conveyance shall contain a covenant by the purchaser for payment of the rent, and a condition of re-entry on the rent not being paid within a time therein specified not exceeding thirty days:

(ii) A duplicate of the conveyance shall be executed by the purchaser and delivered to the university or college, of which execution and delivery the execution of the conveyance by the university or college shall be sufficient evidence:

(iii) A statement contained in the conveyance, or in an indorsement thereon signed by or on behalf of the university or college, respecting any matter of fact or of calculation under this Act in relation to the sale, shall, in favour of the purchaser and of those claiming under him, be sufficient evidence of the matter stated.

(5) A sale may be made in one lot or in several lots, and either by auction or by private contract, and may be made subject to any stipulations respecting title or evidence of title or other things.

(6) On a sale the university or college may fix reserve biddings and buy in at an auction.

Regulations respecting exchanges.

4.—(1) Save as hereinafter provided every exchange shall be made for the best consideration in land or in land and money that can reasonably be obtained.

(2) An exchange may be made subject to any stipulations respecting title, or evidence of title, or other things.

(3) Land in England or Wales shall not be given by a university or college in exchange for land out of England and Wales.

Payment to Minister of money payable on sale or exchange.

5. Any money (not being rent) payable as consideration on a sale or exchange effected by a university or college under this Act shall be capital money and be paid to the Minister.

Leasing Powers.

Power to lease for building or mining or ordinary purposes.

6. A university or college may lease any land belonging to the university or college, or any easement, right, or privilege of any kind, over or in relation to the same, for any purpose whatever, whether involving waste or not, for any term not exceeding—

(i) In case of a building lease, ninety-nine years:

(ii) In case of a mining lease, sixty years:

(iii) In case of any other lease, twenty-one years.

Regulations respecting leases generally.

7.—(1) Save as hereinafter provided:—

(i) Every lease shall be by deed, and be made to take effect in possession not later than twelve months after its date:

(ii) Every lease shall reserve the best rent that can reasonably be obtained, regard being had to any fine taken, and to any money laid out or to be laid out for the benefit of any land belonging to the university or college, and generally to the circumstances of the case:

(iii) Every lease shall contain a covenant by the lessee for payment of the rent, and a condition of re-entry on the rent not being paid within a time therein specified not exceeding thirty days.

(2) A counterpart of every lease shall be executed by the lessee and delivered to the university or college, of which execution and delivery the execution of the lease by the university or college shall be sufficient evidence.

(3) A statement, contained in a lease or in an indorsement thereon, signed by or on behalf of the university or college, respecting any matter of fact or of calculation under this Act in relation to the lease, shall, in favour of the lessee and of those claiming under him, be sufficient evidence of the matter stated.

(4) A fine received on the grant of a lease under any power conferred by this Act shall be capital money and be paid to the Minister.

Leasing powers for special objects.

8. The leasing power of a university or college extends to the making of—

(i) a lease for giving effect (in such manner and so far as the law permits) to a covenant of renewal, performance whereof could be enforced against the owner for the time being of the land belonging to the university or college; and

(ii) a lease for confirming, as far as may be, a previous lease being void or voidable; but so that every lease, as and when confirmed, shall be such a lease as might at the date of the original lease have been lawfully granted under this Act, or otherwise, as the case may require.

Regulations respecting building leases.

9.—(1) Every building lease shall be made partly in consideration of the lessee, or some person by whose direction the lease is granted, or some other person, having erected, or agreeing to erect, buildings, new or additional, or having improved or repaired, or agreeing to improve or repair, buildings, or having executed, or agreeing to execute, on the land leased, an improvement authorised by this Act for or in connexion with building purposes.

(2) A peppercorn rent or a nominal or other rent less than the rent ultimately payable, may be made payable for the first five years or any less part of the term.

(3) Where the land is contracted to be leased in lots, the entire amount of rent to be ultimately payable may be apportioned among the lots in any manner; save that—

(i) the annual rent reserved by any lease shall not be less than ten shillings; and

(ii) the total amount of the rents reserved on all leases for the time being granted shall not be less than the total amount of the rents which, in order that the leases may be in conformity with this Act, ought to be reserved in respect of the whole land for the time being leased; and

(iii) the rent reserved by any lease shall not exceed one-fifth part of the full annual value of the land comprised in that lease with the buildings thereon when completed.

Regulations respecting mining leases.

10.—(1) In a mining lease—

(i) the rent may be made to be ascertainable by or to vary according to the acreage worked, or by or according to the quantities of any mineral or substance gotten, made merchantable, converted, carried away, or disposed of, in or from any land belonging to the university or college, or any other land, or by or according to any facilities given in that behalf; and

(ii) the rent may also be made to vary according to the price of the minerals or substances gotten, or any of them, and such price may be the saleable value, or the price or value appearing in any trade or market or other price list or return from time to time, or may be the marketable value as ascertained in any manner prescribed by the lease (including a reference to arbitration), or may be an average of any such prices or values taken during a specified period; and

(iii) a fixed or minimum rent may be made payable, with or without power for the lessee, in case the rent, according to acreage or quantity or otherwise, in any specified period does not produce an amount equal to the fixed or minimum rent, to make up the deficiency in any subsequent specified period, free of rent other than the fixed or minimum rent.

(2) A lease may be made partly in consideration of the lessee having executed, or his agreeing to execute, on the land leased, an improvement authorised by this Act for or in connexion with mining purposes.

Variation of building or mining lease according to circumstances of district.

11. Where it is shown to the Minister with respect to the district in which any land belonging to a university or college is situate, either—

(i) that it is the custom for land therein to be leased for building or mining purposes for a longer term or on other conditions than the term or conditions specified in that behalf in this Act; or

(ii) that it is difficult to make leases for building or mining purposes of land therein, except for a longer term or on other conditions than the term and conditions specified in that behalf in this Act;

the Minister may, if he thinks fit, authorise generally the university or college to make from time to time leases of or affecting land in that district for any term or on any conditions as in the authority expressed, or may, if he thinks fit, authorise the university or college to make any such lease in any particular case, and thereupon the university or college, subject to any direction in the authority to the contrary, may make in any case, or in the particular case, a lease of the land in conformity with the authority.

Application of mineral rents, &c.

12. The net rents, tolls, duties, royalties, and reservations which may be received by a university or college, for or in respect of any mining lease to be granted under this Act or any enactment hereby repealed, shall be applied and disposed of by the university or college in manner following; (that is to say),—

(*a*) one equal third part of such net rents, tolls, duties, royalties, and reservations, shall be applicable and be applied by the university or college as part of their ordinary income, and

(*b*) the remaining two equal third parts thereof shall be applicable and be applied by the university or college in or upon any of the purposes following; (that is to say,) in the purchase of lands to be conveyed to or for the benefit of the university or college, or in the erection of new buildings, or in the addition to and enlargement of any existing buildings, or in the drainage, or other permanent and lasting improvement of any lands belonging to the university or college, or in the purchase of any wayleaves, or other easements, in, over, or upon any lands adjoining, or near to any such lands; and, in the meantime, until such two equal third parts shall be applied in or upon any of the purposes aforesaid, the same shall be invested by the university or college in the purchase of Government

stocks, funds, or securities, and the interest, dividends, and annual proceeds thereof shall be received by the university or college, and be applicable as part of their ordinary income.

Surrenders and Regrants.

Surrenders and regrants.

13.—(1) A university or college may accept, with or without consideration, a surrender of any lease of land belonging to the university or college, whether made under this Act or not, or a regrant of any land granted in fee simple, whether under this Act or not, in respect of the whole land leased or granted, or any part thereof, with or without an exception of all or any of the mines and minerals therein, or in respect of mines and minerals, or any of them, and with or without an exception of any easement, right or privilege of any kind over or in relation to the land surrendered or regranted.

(2) On a surrender of a lease, or a regrant of land granted in fee simple, in respect of part only of the land or mines and minerals leased or granted, the rent may be apportioned.

(3) On a surrender or regrant, the university or college may in relation to the land or mines and minerals surrendered or regranted, or of any part thereof, make a new or other lease or grant in fee simple, or new or other leases or grants in fee simple in lots.

(4) A new or other lease, or grant in fee simple, may comprise additional land or mines and minerals, and may reserve any apportioned or other rent.

(5) On a surrender or regrant, and the making of a new or other lease, whether for the same or for any extended or other term, or of a new or other grant in fee simple, and whether or not subject to the same or to any other covenants, provisions, or conditions, the value of the lessee's or grantee's interest in the lease surrendered, or the land regranted, may be taken into account in the determination of the amount of the rent to be reserved, and of any fine or consideration in money to be taken, and of the nature of the covenants, provisions, and conditions to be inserted in the new or other lease, or grant in fee simple.

(6) Every new or other lease, or grant in fee simple, shall be in conformity with this Act.

(7) All money (not being rent) received on the exercise by a university or college of the powers conferred by this section, shall be paid to the Minister, and shall, unless the Minister (upon an application made within six months after the receipt thereof or within such further time as the Minister may in special circumstances allow) otherwise directs, be capital money.

(8) In this section "land granted in fee simple" means land so granted with or subject to a reservation thereout of a perpetual or terminable rent which is or forms part of land belonging to the university or college, and "grant in fee simple" has a corresponding meaning.

Miscellaneous Powers.

Power to grant water rights to statutory bodies.

14.—(1) For the development, improvement, or general benefit of land belonging to the university or college, a university or college may make a grant in fee simple or absolutely or a lease for any term of years absolute, for a nominal price or rent, or for less than the best price or rent that can reasonably be obtained, or gratuitously, to any statutory authority, of any water or streams or springs of water in, upon, or under land belonging to the university or college, and of any rights of taking, using, enjoying and conveying water, and of laying, constructing, maintaining, and repairing mains, pipes, reservoirs, dams, weirs and other works of any kind proper for the supply and distribution of water, and of any land belonging to the university or college which is required as a site for any of the aforesaid works, and of any easement, right or privilege over or in relation to land belonging to the university or college in connexion with any of the aforesaid works.

(2) This section does not authorise the creation of any greater rights than could have been created by a person absolutely entitled for his own benefit to the land affected.

(3) In this section "statutory authority" means an authority or company for the time being empowered by any Act of Parliament, public, general, or local or private, or by any order or certificate having the force of an Act of Parliament, to provide with a supply of water

any town, parish or place in which the land belonging to the university or college is situated.

(4) All money (not being rent) received on the exercise of any power conferred by this section shall be capital money, and be paid to the Minister.

Power to grant land for public and charitable purposes.

15.—(1) For the development, improvement, or general benefit of land belonging to the university or college, a university or college may with the consent of the Minister make a grant in fee simple or absolutely, or a lease for any term of years absolute, for a nominal price or rent, or for less than the best price or rent that can reasonably be obtained, or gratuitously, of any land belonging to the university or college, with or without any easement, right or privilege over or in relation to land belonging to the university or college, for all or any one or more of the following purposes, namely :—

(i) For the site or the extension of any existing site of a place of religious worship, residence for a minister of religion, school house, town hall, market house, public library, public baths, museum, hospital, infirmary, or other public building, literary or scientific institution, drill hall, working-men's club, parish room, reading room or village institute, with or without in any case any yard, garden, or other ground to be held with any such building; or

(ii) For the construction, enlargement, or improvement of any railway, canal, road (public or private), dock, sea-wall, embankment, drain, watercourse, or reservoir; or

(iii) For any other public or charitable purpose in connexion with land belonging to the university or college, or tending to the benefit of the persons residing, or for whom dwellings may be erected, on such land :

Not more than one acre shall in any particular case be conveyed for any purpose mentioned in paragraphs (i) and (iii) of this subsection, nor more than five acres for any purpose mentioned in paragraph (ii) of this subsection, unless the full consideration be paid or reserved in respect of the excess.

(2) All money (not being rent) received on the exercise of any power conferred by this section shall be capital money, and be paid to the Minister.

Dedication for streets, open spaces, &c

16.—(1) On or after or in connexion with a sale or grant for building purposes, or a building lease or the development as a building estate of land belonging to the university or college, or at any other reasonable time, the university or college, for the general benefit of the residents on land belonging to the university or college—

(i) may cause or require any parts of such land to be appropriated and laid out for streets, roads, paths, squares, gardens, or other open spaces, for the use, gratuitously or on payment of the public or of individuals, with sewers, drains, watercourses, fencing, paving, or other works necessary or proper in connexion therewith; and

(ii) may provide that the parts so appropriated shall be conveyed to or vested in trustees or any company or public body, on trusts or subject to provisions for securing the continued appropriation thereof to the purposes aforesaid, and the continued repair or maintenance of streets and other places and works aforesaid, with or without provision for appointment of new trustees when required; and

(iii) may execute any general or other deed necessary or proper for giving effect to the provisions of this section (which deed may be inrolled in the Central Office of the Supreme Court of Judicature), and thereby declare the mode, terms, and conditions of the appropriation, and the manner in which and the persons by whom the benefit thereof is to be enjoyed, and the nature and extent of the privileges and conveniences granted.

(2) In regard to the dedication of land for public purposes a university or college shall be in the same position as if it were an absolute owner.

(3) A university or college shall have power—

(*a*) to enter into any agreement for the recompense to be made for any land belonging to the university or college which is required for the widening of a highway under section eighty-two of the Highway Act, 1835, or otherwise; and

5 & 6 Will. 4. c. 50.

(*b*) to consent to the diversion of any highway over land belonging to the university or college under section eighty-five of that Act or otherwise; and

(*c*) to consent to any such road as is mentioned in section thirty-six of the Highway Act, 1862, being declared a public highway;

25 & 26 Vict. c. 61.

and any agreement or consent so made or given shall be as valid and effectual, for all purposes, as if made or given by an individual who is the absolute owner of the land.

(4) All money (not being rent) received on the exercise of any power conferred by this section shall be capital money, and be paid to the Minister.

Power to compromise claims and release restrictions, &c.

17.—(1) A university or college may, with the consent of the Minister, either with or without giving or taking any consideration in money or otherwise, compromise, compound, abandon, submit to arbitration, or otherwise settle any claim, dispute, or question whatsoever relating to land belonging to the university or college, including in particular claims, disputes or questions as to boundaries, the ownership of mines and minerals, rights and powers of working mines and minerals, local laws and customs relative to the working of mines and minerals and other matters, manorial incidents, easements, and restrictive covenants, and for any of those purposes may enter into, give, execute, and do such agreements, assurances, releases, and other things as the university or college may, with such consent as aforesaid, think proper.

(2) A university or college may, with the consent of the Minister, at any time, either with or without consideration in money or otherwise, release, waive, or modify, or agree to release, waive, or modify, any covenant, agreement or restriction imposed on any other

land for the benefit of land belonging to the university or college, or release, or agree to release, any other land from any easement, right or privilege, including a right of pre-emption, affecting the same for the benefit of land belonging to the university or college.

(3) A university or college may contract that a transaction effected before or after the commencement of this Act, which (subject or not to any variation authorised by this subsection) is affected by section seventy-eight of the Railway Clauses Consolidation Act, 1845, or by section twenty-two of the Waterworks Clauses Act, 1847 (relating to support by minerals) shall take effect as if some other distance than forty yards or the prescribed distance had been mentioned in such sections or had been otherwise prescribed: 8 & 9 Vict. c. 20. 10 & 11 Vict. c. 17.

Provided that in any case where section seventy-eight aforesaid has effect as amended and and re-enacted by Part II. of the Mines (Working Facilities and Support) Act, 1923, a university or college may make any agreement authorised by section 85A of the Railway Clauses Consolidation Act, 1845, as enacted in the said Part II. 13 & 14 Geo. 5. c. 20.

Power to vary leases and grants.

18. A university or college may, at any time, by deed, either with or without consideration in money or otherwise, vary, release, waive or modify, either absolutely or otherwise, the terms of any lease whenever made of land belonging to the university or college, or any covenants or conditions contained in any grant in fee simple whenever made of land with or subject to a reservation thereout of a rent payable to the university or college, and in either case in respect of the whole or any part of the land comprised in any such lease or grant, but so that every such lease or grant shall, after such variation, release, waiver or modification as aforesaid, be such a lease or grant as might then have been lawfully made under this Act if the lease had been surrendered, or the land comprised in the grant had never been so comprised, or had been regranted.

Power to apportion rents.

19.—(1) A university or college may, at any time, by deed, either with or without consideration in money or otherwise, agree for the apportionment of any rent reserved or created by any such lease or grant as mentioned in the last preceding section, or any rent payable to the university or college, so that the apportioned parts

of such rent shall thenceforth be payable exclusively out of or in respect of such respective portions of the land subject thereto as may be thought proper, and also agree that any covenants, agreements, powers, or remedies for securing such rent and any other covenants or agreements by the lessee or grantee and any conditions shall also be apportioned and made applicable exclusively to the respective portions of the land out of or in respect of which the apportioned parts of such rent shall thenceforth be payable.

(2) Where the land, or any part thereof, is held or derived under a lease, or under a grant reserving rent, or subject to covenants, agreements or conditions (whether such lease or grant comprises other land or not), the university or college may, at any time, by deed, with or without giving or taking any consideration in money or otherwise, procure the variation, release, waiver, or modification, either absolutely or otherwise, of the terms, covenants, agreements or conditions contained in such lease or grant, in respect of the whole or any part of the land, including the apportionment of any rent, covenants, agreements, conditions, and provisions reserved, or created by, or contained in, such lease or grant.

(3) This section applies to leases or grants made either before or after the commencement of this Act.

Provisions as to consideration.

20.—(1) All money (not being rent) payable by the university or college in respect of any transaction to which any of the three last preceding sections relates may be paid out of capital money, and all money (not being rent) received on the exercise by the university or college of the powers conferred by any of those sections, shall be paid to the Minister and shall, unless the Minister (upon an application made within six months after the receipt thereof or within such further time as the Minister may in special circumstances allow) otherwise directs, be capital money.

(2) For the purpose of the three last preceding sections "consideration in money or otherwise" means—

(*a*) a capital sum of money or a rent;

(*b*) land being freehold or leasehold for any term of years whereof not less than sixty years shall be unexpired;

(*c*) any easement, right or privilege over or in relation to land belonging to the university or college, or any other land;

(*d*) the benefit of any restrictive covenant or condition; and

(*e*) the release of land belonging to the university or college, or any other land, from any easement, right or privilege, including a right of pre-emption or from the burden of any restrictive covenant or condition affecting the same.

General power to effect any transaction under an order of the Minister.

21.—(1) Any transaction affecting or concerning land belonging to a university or college, or any other land, not otherwise authorised by this Act, which in the opinion of the Minister would be for the benefit of land belonging to the university or college, may, under an order of the Minister, be effected by a university or college: Provided that the transaction is one which could have been validly effected by an absolute owner.

(2) In this section "transaction" includes any sale, extinguishment of manorial incidents, exchange, assurance, grant, lease, surrender, reconveyance, release, reservation, or other disposition, and any purchase or other acquisition, and any covenant, contract, or option, and any application of capital money (except as hereinafter mentioned), and any compromise or other dealing, or arrangement; but does not include an application of capital money in payment for any improvement not authorised by this Act; and "effected" has the meaning appropriate to a particular transaction; and the references to land extend and apply to restrictions and burdens affecting land.

(3) If a question arises or a doubt is entertained as to the intended exercise by a university or college of any power conferred by this Act, the university or college or any other person interested, may apply to the Minister for his decision, opinion, advice or directions thereon, or for the sanction of the Minister to any conditional contract for such exercise, and the Minister may make such order as he thinks fit.

Separate dealing with surface and minerals,

22. A sale, exchange, lease or other authorised disposition by a university or college, may be made either of land, with or without an exception or reservation of

with or without wayleaves, &c.

all or any of the mines and minerals therein, or of any mines and minerals, and in any such case with or without a grant or reservation of powers of working, wayleaves or rights of way, rights of water and drainage, and other powers, easements, rights, and privileges for or incident to or connected with mining purposes, in relation to land belonging to the university or college, or any other land.

Power to grant options.

23.—(1) A university or college may at any time, with the consent of the Minister, either with or without consideration, grant by writing an option to purchase or take a lease of land belonging to the university or college, or any easement, right, or privilege over or in relation to the same at a price or rent fixed at the time of the granting of the option.

(2) Every such option shall be made exercisable within an agreed number of years not exceeding ten.

(3) The price or rent shall be the best which, having regard to all the circumstances, can reasonably be obtained and either—

(*a*) may be a specified sum of money or rent, or at a specified rate according to the superficial area of the land with respect to which the option is exercised, or the frontage thereof or otherwise; or

(*b*) in the case of an option to purchase contained in a lease or agreement for a lease, may be a stated number of years' purchase of the highest rent reserved by the lease or agreement; or

(*c*) if the option is exercisable as regards part of the land comprised in the lease or agreement, may be a proportionate part of such highest rent;

and any aggregate price or rent may be made to be apportionable in any manner, or according to any system, or by reference to arbitration.

(4) An option to take a mining lease may be coupled with the grant of a licence to search for and prove any mines or minerals under land belonging to the university or college, pending the exercise of the option.

(5) The consideration (if any) for the grant of the option shall be capital money and be paid to the Minister.

Power to enter into contracts.

24.—(1) A university or college—

(i) may contract to make any sale, exchange, mortgage, charge or other disposition authorised by this Act; and

(ii) may vary or rescind, with or without consideration, the contract in the like cases and manner in which, if the university or college were absolute owner of the land, it might lawfully vary or rescind the same, but so that the contract as varied be in conformity with this Act; and

(iii) may contract to make any lease; and in making the lease may vary the terms, with or without consideration, but so that the lease be in conformity with this Act; and

(iv) may accept a surrender of a contract for a lease or a grant in fee simple at a rent, in like manner and on the like terms in and on which it might accept a surrender of a lease or a regrant; and thereupon may make a new or other contract for or relative to a lease or leases, or a grant or grants in fee simple at a rent, in like manner and on the like terms in and on which it might make a new or other lease or grant, or new or other leases or grants, where a lease or a grant in fee simple at a rent had been executed; and

(v) may enter into a contract for or relating to the execution of any improvement authorised by this Act, and may vary or rescind the same; and

(vi) may, in any other case, enter into a contract to do any act for carrying into effect any of the purposes of this Act, and may vary or rescind the same.

(2) Every contract, including a contract arising by reason of the exercise of an option, shall be binding on and shall enure for the benefit of the land belonging to the university or college.

(3) The Minister may, on the application of the university or college or of any person interested in any contract, give directions respecting the enforcing, carrying into effect, varying, or rescinding thereof.

(4) A preliminary contract under this Act for or relating to a lease, and a contract conferring an option, shall not form part of a title or evidence of the title of any person to the lease, or to the benefit thereof, or to the land the subject of the option.

(5) All money (not being rent) received on the exercise by the university or college of the powers conferred by subsection (1) of this section, shall be paid to the Minister, and shall, unless the Minister (upon an application made within six months after the receipt thereof or within such further time as the court may in special circumstances allow) otherwise directs, be capital money.

Exercise of powers; limitation of provisions, &c.

25.—(1) Where a power of sale, exchange, leasing, mortgaging, charging, or other power is exercised by a university or college, the university or college may execute, make and do all deeds, instruments, and things necessary or proper in that behalf.

(2) Where any provision in this Act refers to sale, purchase, exchange, leasing, or other disposition or dealing, or to any power, consent, payment, receipt, deed, assurance, contract, expenses, act, or transaction, the same shall be construed to extend only (unless it is otherwise expressed) to sales, purchases, exchanges, leasings, dispositions, dealings, powers, consents, payments, receipts, deeds, assurances, contracts, expenses, acts, and transactions under this Act.

Investment or other application of Capital Money.

Modes of investment or application of capital money.

26.—(1) Capital money paid, whether before or after the commencement of this Act, to the Minister under this Act, or under any enactment hereby repealed, and the proceeds of sale of securities representing any such money, may, with the consent of the Minister, be applied by a university or college to any of the following purposes :—

(i) In investment on securities in which trustees are by law authorised to invest trust money,

with power to vary the investment into or for any other such securities;

(ii) In discharge, purchase, or redemption of incumbrances affecting the inheritance of land belonging to the university or college, or of land-tax, rentcharge in lieu of tithe, Crown rent, chief rent, or quit rent, charged on or payable out of the land, or of any charge in respect of an improvement created on an holding under the Agricultural Holdings Act, 1923, or any similar previous enactment; 13 & 14 Geo. 5. c. 9.

(iii) In payment as for an improvement authorised by this Act of any money expended and costs incurred by a landlord under or in pursuance of the Agricultural Holdings Act, 1923, or any similar previous enactment, or under custom or agreement or otherwise, in or about the execution of any improvement comprised in Part I. or Part II. of the First Schedule to the said Agricultural Holdings Act;

(iv) In payment for equality of exchange of land belonging to the university or college;

(v) In discharge of any fines payable in respect of the alienation of any land belonging to the university or college affected by manorial incidents;

(vi) In payment of the gross sum or an instalment thereof attributable to capital payable as compensation for the extinguishment of manorial incidents affecting land belonging to the university or college, and for the acquisition of any mines, minerals, and other rights of the lord, or the owner of the land affected by the manorial incidents, and for the compensation of the steward;

(vii) In redemption of any compensation rentcharge created in respect of the extinguishment of manorial incidents, and affecting land belonging to the university or college;

(viii) In commuting any additional rent made payable on the conversion of a perpetually renewable leasehold interest into a long term, and in satisfying any claim for compensation on

such conversion by any officer, solicitor, or other agent of the lessor in respect of fees or remuneration which would have been payable by the lessee or under-lessee on any renewal;

(ix) In purchase of the freehold reversion in fee of any land expectant on the determination of any interest in the land belonging to the university or college;

(x) In purchase of land in fee simple, or of leasehold land held for sixty years or more unexpired at the time of purchase, subject or not to any exception or reservation of or in respect of mines or minerals therein, or of or in respect of rights or powers relative to the working of mines or minerals therein, or in other land;

(xi) In purchase either in fee simple, or for a term of sixty years or more, of mines and minerals convenient to be held or worked with land belonging to the university or college, or of any easement, right, or privilege convenient to be held with that land for mining or other purposes;

(xii) In purchase of the interest of a lessee under a lease from the university or college;

(xiii) In payment of the costs and expenses of all plans, surveys, and schemes, including schemes under the Town Planning Act, 1925, or any similar previous Act, made with a view to, or in connexion with, the improvement or development of any land belonging to the university or college, or any part thereof, or the exercise of any statutory powers, and of all negotiations entered into by the university or college with a view to the exercise of any of the said powers, notwithstanding that such negotiations may prove abortive, and in payment of the costs and expenses of opposing any such proposed scheme as aforesaid affecting land belonging to the university or college, whether or not the scheme is made;

15 Geo. 5. c. 16.

(xiv) In the purchase of an annuity charged under section four of the Tithe Act, 1918, on any land belonging to the university or college or any part thereof, or in the discharge of

8 & 9 Geo. 5. c. 54.

such part of any such annuity as does not represent interest;

(xv) In payment to a local or other authority of such sum as may be agreed in consideration of such authority taking over and becoming liable to repair a private road on land belonging to the university or college or a road for the maintenance whereof the university or college is liable ratione tenuræ;

(xvi) In or towards the restoration or rebuilding of the chancel of any church which the university or college is by law liable to restore or rebuild;

(xvii) In payment of costs, charges, and expenses of or incidental to the exercise of any of the powers, or the execution of any of the provisions of this Act or any enactment hereby repealed, including the costs and expenses incidental to any of the matters referred to in this section.

(2) Any such capital money or proceeds may be applied with the consent of the Minister in repayment of any money borrowed under this Act or any Act repealed by this Act or to any of the purposes to which money so borrowed is applicable under this Act:

Provided that—

(*a*) where any capital money is applied in repayment of a loan, it shall be replaced within or at the expiration of the period limited for the repayment of the loan and on the terms mentioned in the order consenting to the loan, and that where capital money is applied to any purpose to which money borrowed is applicable under this Act, the like provision shall be made by the university or college for replacing the same as is by this Act required to be made for the repayment of money borrowed under this Act; and

(*b*) where capital money is applied in payment for an improvement mentioned in Part II. of the First Schedule to this Act it shall be replaced by not more than fifty half-yearly instalments, the first instalment being payable at the expiration of six months from the date

when the work or operation in payment for which the capital money was applied was completed.

(3) The income of any securities on which capital money is invested under this section shall, except where it is by or under this Act required to be accumulated, be paid or applied as the income of the land represented by the securities would have been payable or applicable.

(4) Land purchased under this section shall be conveyed to the university or college to be held upon trusts corresponding to the purposes for which the capital money or proceeds of sale of securities applied in the purchase were held.

(5) Where the purpose to which money may be applied under this section is of such a nature that, in the opinion of the Minister, provision ought to be made for replacing the money within a limited time, the Minister shall, in giving his consent to the application, require provision to be so made.

Provisions as to money in court.

27. The provisions of this Act as to capital money shall also apply to money belonging solely to a university or college which may have arisen from the sale, enfranchisement, or exchange under any other Act of Parliament, or otherwise howsoever, of any lands belonging to the university or college and which may for the time being be standing to the account or credit of any cause or matter in the Supreme Court or in the names of trustees nominated in pursuance of any Act of Parliament.

Provision as to money payable into court or to trustees.

28.—(1) Where the purchase, consideration, or compensation money payable in respect of any land belonging to a university or college is directed by any Act of Parliament to be paid into court, or either into court or to trustees, the money shall, at the option of the university or college, be paid either as directed by the Act or to the Minister.

(2) Where any such money has been paid either before or after the commencement of this Act either into court or to trustees on behalf of a university or college, that sum, or the securities representing it, may, if in court on the application of, and if held by trustees

by the direction of, the university or college, be paid or transferred to the Minister.

(3) Money paid and securities transferred to the Minister under this section on behalf of a university or college shall be treated as capital money paid to the Minister under this Act and as securities representing money so paid.

Application of money paid for lease or reversion.

29. Where capital money payable to the Minister under this Act, or any enactment hereby repealed, is purchase money paid in respect of a lease for years, or in respect of any other estate or interest in land less than the fee simple, or in respect of a reversion dependent on any such lease, estate, or interest, the Minister may, notwithstanding anything in this Act, require and cause the same to be laid out, invested, accumulated, and paid in such manner as, in the judgment of the Minister, will give to the parties interested in that money the like benefit therefrom as they might lawfully have had from the lease, estate, interest, or reversion in respect whereof the money was paid, or as near thereto as may be.

Power of raising Money.

Power to raise money with consent of the Minister for improvements.

30.—(1) A university or college may, with the consent of the Minister, raise by mortgage of any lands belonging to the university or college, such sums of money (together with all reasonable costs and expenses incidental to such raising and the application thereof) as may be certified by the surveyor of the university or college to be properly required, and may be authorised by the Minister, carrying interest at a rate not exceeding the rate to be specified in the order evidencing the consent of the Minister.

(2) The sums so raised shall be applied for or towards the restoration and improvement and (if need be) enlargement of any house or building forming part of or connected with or otherwise belonging to the university or college, or for or towards the erection of new or additional houses or buildings, or for the extension and improvement of any existing houses or buildings upon any lands belonging to the university or college, or for the execution of any improvement specified in the First Schedule to this Act or for any other permanent

and lasting improvement of any lands belonging to the university or college.

Power to raise money by way of compensation for loss of fines on non-renewal of leases.

31.—(1) Whenever any lease of land belonging to a university or college, the leases of which have been customarily renewed on payment of a fine, from any cause whatever (other than such as is hereinafter mentioned) remains unrenewed at any customary period of renewal, or whenever any loss of fines has been occasioned by the surrender of any lease upon any transaction by way of sale or exchange between the university or college and its lessees, it shall be lawful for the university or college, with the consent of the Minister, to raise by mortgage of any land belonging to the university or college such sums of money (together with all reasonable costs and expenses incidental to such raising) as may be required, and be stated in the order evidencing the consent of the Minister, carrying interest at a rate not exceeding the rate to be specified in the order, for the purpose of paying, by way of indemnity, to the then existing members of the university or college the same amount of money as would have accrued to the said members if any such lease had been renewed in manner theretofore accustomed: Provided that—

(*a*) the power of raising money under this section shall not be exercised for the purpose of providing for the loss of more than two fines in respect of the same land; and

(*b*) upon the creation of any such mortgage provision shall be made by the university or college, with the approval of the Minister, for the discharge of the borrowed money within or at the expiration of thirty years from the borrowing thereof; and

(*c*) after any sum has been raised under the power hereinbefore contained in lieu of the fines payable in respect of any lease of any land no fine shall henceforth be taken for the renewal of any lease of that land.

(2) This section does not apply where the non-renewal is due to the refusal of the university or college entitled to the reversion of the land to accept such sum of money by way of fine as may be deemed reasonable by the Minister, and may be tendered by the lessee at

the first and each successive time of renewal after the sixth day of August, eighteen hundred and sixty, or within three months of such time, for the renewal of any lease theretofore regularly renewed.

Provision for the discharge of money borrowed on mortgage.

32.—(1) When money has been raised by a mortgage made by a university or college under this Act, or under any enactment repealed by this Act, the university or college shall, in such manner as may be approved by the Minister, make provision, either by the grant of an annuity to the lender or by the creation of a sinking or redemption fund or otherwise, for the discharge, within such time not exceeding fifty years as may be sanctioned by the Minister, of the money borrowed, and for the payment of interest due thereon.

(2) The maximum time allowed for the repayment of the loan—

(*a*) in the case of a mortgage to secure money borrowed before the twelfth day of October, eighteen hundred and ninety-eight, shall not exceed thirty years from the date of the original borrowing; and

(*b*) in the case of a loan raised for the purposes of an improvement mentioned in Part II. of the First Schedule to this Act, shall not exceed twenty-five years from the date when the work or operation in payment for which the money was borrowed was completed.

Special Provisions as to Advowsons, &c.

Power to sell advowsons, &c.

33.—(1) Arrangements may be made under the authority of the Ecclesiastical Commissioners to enable a university or college—

(*a*) to sell any benefices, with or without cure of souls, rights of patronage, impropriate rectories, or any other lands or hereditaments annexed or belonging to or held, either wholly or partly by, or in trust for, the university or college, or the head or other member of the college;

(*b*) to sell rights of patronage of benefices, the patronage whereof is vested in any person in

trust for the university or college, or for the benefit of the head or any other member of the college;

(*c*) to invest the proceeds of any such sale in the purchase of land in fee simple or any parliamentary or public stocks or funds of Great Britain or other securities, to be settled, held, applied, and disposed of in such manner as may be arranged and determined by the university or college and the Ecclesiastical Commissioners, with proper provision, in cases where the benefice is annexed or, belongs to or is held in trust for, the head or other member of the college, for the payment of the interest thereof to the head or such other member of the college upon his resigning the benefice; and

(*d*) to annex the whole or any part of the endowments belonging to any such benefice being a benefice without cure of souls or impropriate rectory, or other lands or hereditaments as aforesaid, or to apply the proceeds of sale thereof, or to apply the proceeds of sale of any rights of patronage, or any part thereof, whether made under this section or otherwise, or any money, stocks, funds, or securities belonging to the university or college, or to any head or to any other member thereof, by way of endowment or augmentation of any benefice with cure of souls, the patronage whereof belongs to, or is held in trust for, or for the benefit of, the university or college or the head or other member of the college:

Provided that the powers conferred by this section shall not be exercised to the prejudice of the existing interest of any such head or other member of a college without his consent; and in case of any diminution being occasioned in the income of any such head or other member of a college by any sale, annexation, purchase, or investment that may be made under the provisions of this section, arrangements may be made under the authority of the said Commissioners for giving to such head or other member adequate compensation for such diminution

of his income out of the revenues of the college, or out of the proceeds of any such sale or investment.

(2) Every endowment or augmentation which may be made by a university or college of any benefice with cure of souls under the authority of this section, or by virtue of the provisions of the Augmentation of Benefices Act, 1831, or any other Act shall be valid notwithstanding the clear annual value of such benefice may at the time of such endowment or augmentation exceed or be thereby made to exceed the limits prescribed by section sixteen of the said Act of 1831 or by any other Act: 1 & 2 Will. 4. c. 45.

Provided that no such augmentation or endowment beyond the clear annual value of five hundred pounds shall be made under the said Act of 1831 except with the consent of the said Commissioners in addition to such other consents as may be otherwise required thereto.

(3) On the sale or annexation under this section of any benefice without cure of souls, or of any impropriate rectory to which any right of patronage belongs, such right of patronage, if not intended to be included in such sale or to accompany such annexation, shall immediately after such sale or annexation be separated from and be no longer exercised by the holder of such benefice without cure of souls, or impropriate rectory, but shall by force of this Act be absolutely transferred to and vested in the university or college, the former patrons or owners of the benefice or impropriate rectory.

(4) For the purposes of this section the expression "benefice" includes any canonry, ecclesiastical rectory, prebend, or other preferment.

(5) Any authority or consent of the Ecclesiastical Commissioners under this or the next succeeding section shall be evidenced in writing under their common seal.

Power to purchase advowsons, &c.

34.—(1) Arrangements may be made under the authority of the Ecclesiastical Commissioners to enable a university or college to purchase, out of any of the corporate funds or revenues thereof, advowsons of benefices and any rights of perpetual presentation or nomination to benefices, whether such benefices are or are not annexed to, or held by, or in trust for, the

university or college, or the head or other member of the college.

8 & 9 Vict. c. 18.

(2) The Lands Clauses Consolidation Act, 1845 (except such parts thereof as relate to the purchase of lands otherwise than by agreement, and to the recovery of forfeitures, penalties, and costs, and to the sale of superfluous lands), shall be incorporated with and form part of this section, and as if the university or college in each particular case had been inserted therein instead of "the promoters of the undertaking": Provided that the powers by the said Act vested in the promoters of the undertaking shall be exercised only by a university or college with the consent of the Ecclesiastical Commissioners.

Power to substitute lands, &c. for rents, &c. as endowments of benefices. 17 & 18 Vict. c. 84.

35.—(1) Where any rent or annual sum of money granted, reserved, or made payable, whether before or after the commencement of this Act, under any of the powers of the Augmentation of Benefices Act, 1854, or of the several Acts therein mentioned or otherwise, to the incumbent of any church, by way of endowment, or in augmentation of the endowment of any church or chapel, is charged upon or made payable out of any revenues, lands, or other hereditaments belonging to a university or college, it shall be lawful—

(*a*) for the university or college, with the consent of the incumbent for the time being of the church, and also with the consent of the bishop of the diocese within which the church is situate, and of the patron thereof, and notwithstanding any statute or law to the contrary, by deed to appropriate and annex in perpetuity to the church any land, tithe rentcharge, or other hereditaments belonging to the university or college, to the intent that the same may be held and enjoyed by the incumbent for the time being of the church in lieu of and substitution for such rent or annual sum of money as aforesaid; and

(*b*) for the incumbent for the time being to accept to him and his successors such substituted endowment or augmentation, and by the same or any other deed, to release any revenues, lands, or other hereditaments theretofore charged with the said rent or annual sum of money;

and the premises so released shall be thenceforth wholly discharged from the said rent or sum of money, and from all powers and remedies for the recovery thereof.

(2) A bishop shall not give his consent to any such annexation and release as aforesaid unless it is proved to his satisfaction that the substituted endowment or augmentation will produce an income which will exceed or be fully equal to the rent or annual sum of money for which the same is to be substituted.

(3) Such deed or deeds as aforesaid shall be executed by the patron and bishop whose consent is so required as aforesaid, and shall state that such proof as aforesaid has been given to the satisfaction of the bishop.

Severance of benefices from headships of colleges.

36. Where a benefice is by statute or otherwise annexed to the headship of a college as part of the endowment of the headship, and it appears that the endowments of the benefice are sufficient to bear such a charge as is hereinafter mentioned, the college may by deed charge the whole or any part of the land or other endowments of the benefice with the payment to the head of the college for the time being of such an annual sum, not exceeding one half of such endowments, as is in the opinion of the Ecclesiastical Commissioners and the bishop of the diocese proper and adequate, regard being had to the value of the benefice, the requirements of the college, and, in the case of a parochial benefice, the population and other circumstances of the parish, and thereupon the advowson and right of presentation of and in such benefice shall be vested in the college freed and discharged from any trust in favour of the head for the time being.

Power to transfer advowsons, &c. gratuitously.

37. It shall be lawful for a university or college to transfer gratuitously to a bishop, dean and chapter, or other ecclesiastical corporation willing to accept the same, any right of patronage belonging to the university or college.

Provisions as to the Minister.

Provisions as to consents by Minister.

38.—(1) The consent required by this Act to be given by the Minister to any sale or exchange by a university or college shall be evidenced in manner following (that is to say); the Minister, upon consideration of the

proposed transaction, and the report thereon of the surveyor of the university or college, and being satisfied as to the propriety thereof, shall issue an order under his official seal authorising the proposed sale or exchange to be carried into effect by the university or the college.

(2) The consent of the Minister to the investment of capital money in the purchase of other lands, shall also be evidenced by a similar order, to be issued by the Minister in manner aforesaid, approving of the proposed purchase, and authorising the university or college to carry the same into effect.

(3) The consent of the Minister to the raising of money by mortgage shall be evidenced by a similar order authorising the proposed mortgage to be effected by the university or college.

(4) It shall not in any case be necessary that the Minister should be made party to, or should execute any conveyance, assignment, or other assurance or instrument to be made or executed by a university or college for effecting any sale, exchange, purchase, mortgage or other transaction under this Act, or satisfy himself as to the title of any lands, the subject of any such transaction.

(5) Notwithstanding anything herein contained, the Minister may require a valuation to be made by any surveyor to be selected or approved by him, and also a plan to be furnished of the lands, the subject of any such sale, exchange, purchase, or mortgage, and all costs and expenses of and incidental to obtaining any such consent shall be borne by the university or college.

(6) The Minister may, if he thinks fit, in giving his consent to a sale, exchange, purchase, or redemption of any land tax, tithe rentcharge, Crown rent, chief rent, quit rent or other periodical payment, by a university or college, dispense with a report from the surveyor of the university or college.

Power of Minister to charge fees.

39.—(1) Fees shall be payable to the Minister with respect to business transacted under this Act in accordance with a table of fees prepared by the Minister and approved by the Treasury.

(2) Any such table shall be published in the London Gazette and shall be laid before Parliament.

(3) Any such table in force at the commencement of this Act shall have effect as if prepared and approved under this Act.

Supplemental Provisions.

Power to transfer to the university or college lands vested in individual members thereof.

40. When any lands are vested in any person being a member of a university or college in trust or for the benefit of the university or college, or the head or any other member thereof, it shall be lawful for such person with the consent of the Minister to convey and transfer such lands in such manner as that the same may be vested in the university or college in its corporate capacity, upon the trusts nevertheless affecting the same lands respectively.

Land to which Act applies and mode of exercise of powers.

41.—(1) The powers and provisions of this Act relating to land belonging to a university or college shall extend and be applicable not only to land vested in the university or college, or in any body constituted for holding land belonging to the university or college, and held as the property or for the general purposes of the university or college, but also to land so vested which may be held upon any trusts, or for any special endowment or other purposes, connected with the university or college.

(2) The powers conferred by this Act on a university or college may as respects each particular university or college be exercised by such body and in such manner as may be provided by the statutes regulating that university or college.

Saving of existing powers.

42. Nothing in this Act contained shall restrain a university or college, or other body constituted for holding land belonging to a university or college, from exercising any powers of sale, exchange, purchase, or borrowing, or from granting any leases or making any grants, whether by way of renewal or otherwise, which the university or college might have exercised or granted under the provisions of any Act of Parliament, whether public general or local or private, or under any other authority, or in any other manner whatsoever, in case this Act had not been passed: Provided that, upon any exchange being effected under the provisions of the Inclosure Acts, 1845 to 1882, it shall be lawful for the Minister to authorise any money by way of equality of exchange to be received by the university or college,

and any money so received shall be capital money and be paid to the Minister, and, until such payment as aforesaid, no order of exchange shall be finally confirmed by the Minister, and a recital of such payment in the order of exchange shall be conclusive evidence thereof.

Definitions.

43. In this Act unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say :—

(i) " Building purposes " include the erecting and the improving of, and the adding to, and the repairing of buildings; and a " building lease " is a lease for any building purposes or purposes connected therewith :

(ii) " Disposition " and " conveyance " include a mortgage, charge by way of legal mortgage, lease, assent, vesting declaration, vesting instrument, disclaimer, release and every other assurance except a will, and " dispose of " or " convey " has a corresponding meaning;

(iii) " Hereditaments " mean real property which on an intestacy might before the commencement of the Law of Property Act, 1922, have devolved on an heir;

12 & 13 Geo. 5. c. 16.

(iv) " Land " includes land of any tenure, and mines and minerals whether or not held apart from the surface, buildings or parts of buildings (whether the division is horizontal, vertical or otherwise) and all other corporeal hereditaments; also a manor, an advowson, and a rent and all other incorporeal hereditaments, and an easement, right, privilege, or benefit in, over, or derived from land, but not an undivided share in land;

(v) " Lease " includes an agreement for a lease;

(vi) " Manor " includes lordship, and reputed manor or lordship; and " manorial incidents " has the same meaning as in the Law of Property Act, 1922;

(vii) " Mines and minerals " mean mines and minerals whether already opened or in work or not, and include all minerals and substances in, on, or under the land, obtainable by underground or by

surface working; and "mining purposes" include the sinking and searching for, winning, working, getting, making merchantable, smelting or otherwise converting or working for the purposes of any manufacture, carrying away, and disposing of mines and minerals, in or under the settled land, or any other land, and the erection of buildings, and the execution of engineering and other works suitable for those purposes; and a "mining lease" is a lease for any mining purposes or purposes connected therewith, and includes a grant or licence for any mining purposes;

(viii) "Minister" means the Minister of Agriculture and Fisheries;

(ix) "Rent" includes yearly or other rent, and toll, duty, royalty, or other reservation, by the acre, or the ton, or otherwise; and, in relation to rent, "payment" includes delivery; and "fine" includes premium or fore-gift, and any payment, consideration, or benefit in the nature of a fine, premium, or fore-gift;

(x) A "term of years absolute" means a term of years, taking effect either in possession or in reversion, with or without impeachment for waste, whether at a rent or not, and whether subject or not to another legal estate, and whether certain or liable to determination by notice, re-entry, operation of law, or by a provision for cesser on redemption, or in any other event (other than the dropping of a life, or the determination of a determinable life interest), but does not include any term of years determinable with life or lives or with the cesser of a determinable life interest, nor, if created after the commencement of this Act, a term of years which is not expressed to take effect in possession within twenty-one years after the creation thereof where required by statute to take effect within that period; and in this definition the expression "term of years" includes a term for less than a year, or for a year or years and a fraction of a year or from year to year.

Repeals.

44.—(1) The Acts mentioned in the Second Schedule to this Act are hereby repealed to the extent specified in the third column of that schedule:

Provided that nothing in this repeal shall affect the validity of anything done before the commencement of this Act, or shall affect any consent, order, authority, or direction given under any enactment so repealed; but any such consent, order, authority, or direction shall have effect as if made under the corresponding provisions of this Act.

(2) References in any document to any enactment repealed by this Act shall be construed as references to this Act or the corresponding provisions of this Act.

Short title and commencement

45.—(1) This Act may be cited as the Universities and College Estates Act, 1925.

(2) This Act shall come into operation on the first day of January, nineteen hundred and twenty-six.

SCHEDULES.

Section 30.

FIRST SCHEDULE.

PART I.

IMPROVEMENTS FOR WHICH A UNIVERSITY OR COLLEGE MAY BORROW OR APPLY CAPITAL MONEY.

(i) Drainage, including the straightening, widening, or deepening of drains, streams, and watercourses:

(ii) Bridges:

(iii) Irrigation; warping:

(iv) Drains, pipes, and machinery for supply and distribution of sewage as manure:

(v) Embanking or weiring from a river or lake, or from the sea, or a tidal water:

(vi) Groynes; sea walls; defences against water:

(vii) Inclosing; straightening of fences; re-division of fields:

1ST SCH. —*cont.*

(viii) Reclamation; dry warping:

(ix) Farm roads; private roads; roads or streets in villages or towns:

(x) Clearing; trenching; planting:

(xi) Cottages for labourers, farm-servants, and artisans, employed on the land or not:

(xii) Farmhouses, offices, and outbuildings, and other buildings for farm purposes:

(xiii) Saw-mills, scutch-mills, and other mills, water-wheels, engine-houses, and kilns, which will increase the value of the land belonging to the university or college for agricultural purposes or as woodland or otherwise:

(xiv) Reservoirs, tanks, conduits, watercourses, pipes, wells, ponds, shafts, dams, weirs, sluices, and other works and machinery for supply and distribution of water for agricultural, manufacturing, or other purposes, or for domestic or other consumption:

(xv) Tramways; railways; canals; docks:

(xvi) Jetties, piers, and landing places on rivers, lakes, the sea, or tidal waters, for facilitating transport of persons and of agricultural stock and produce, and of manure and other things required for agricultural purposes, and of minerals, and of things required for mining purposes:

(xvii) Markets and market-places:

(xviii) Streets, roads, paths, squares, gardens, or other open spaces for the use, gratuitously or on payment, of the public or of individuals, or for dedication to the public, the same being necessary or proper in connexion with the conversion of land into building land:

(xix) Sewers, drains, watercourses, pipe-making, fencing, paving, brick-making, tile-making, and other works necessary or proper in connexion with any of the objects aforesaid:

(xx) Trial pits for mines, and other preliminary works necessary or proper in connexion with development of mines:

(xxi) Additions to or alterations in buildings reasonably necessary or proper to enable the same to be let:

(xxii) Erection of buildings in substitution for buildings within an urban sanitary district taken by a local or other public authority, or for buildings taken under compulsory powers, but so that no more money be expended than the amount received for the buildings taken and the site thereof:

(xxiii) Residential houses for land or mineral agents, managers, clerks, bailiffs, woodmen, gamekeepers and other persons employed on land belonging to the university or college, or in connexion with the management or development thereof:

2ND SCH. —*cont.*

(xxiv) Any offices, workshops and other buildings of a permanent nature required in connexion with the management or development of land belonging to the university or college :

(xxv) The erection and building of dwelling-houses, shops, buildings for religious, educational, literary, scientific, or public purposes, market places, market houses, places of amusement and entertainment, gasworks, electric light or power works, or any other works necessary or proper in connexion with the development of the land belonging to the university or college as a building estate :

(xxvi) Restoration or reconstruction of buildings damaged or destroyed by dry rot :

(xxvii) Structural additions to or alterations in buildings reasonably required, whether the buildings are intended to be let or not, or are already let :

(xxviii) Boring for water and other preliminary works in connexion therewith.

(xxix) Reconstruction, enlargement or improvement of any of the works authorised by this Schedule.

PART II.

IMPROVEMENTS FOR WHICH A UNIVERSITY OR COLLEGE MAY BORROW MONEY OR APPLY CAPITAL MONEY SUBJECT TO SPECIAL PROVISIONS AS TO REPLACEMENT THEREOF.

(xxx) Heating, hydraulic or electric power apparatus for buildings, and engines, pumps, lifts, rams, boilers, flues, and other works required or used in connexion therewith :

(xxxi) Engine houses, engines, gasometers, dynamos, accumulators, cables, pipes, wiring, switchboards, plant and other works required for the installation of electric, gas, or other artificial light, in connexion with any principal mansion, house or other house or buildings; but not electric lamps, gas fittings, or decorative fittings required in any such house or building :

(xxxii) Steam rollers, traction engines, motor lorries and moveable machinery for farming or other purposes.

SECOND SCHEDULE.

Section 44.

REPEALS.

Session and Chapter.	Title and Short Title.	Extent of Repeal.
18 Eliz. c. 6.	An Act for maintenance of the colleges in the universities and of Winchester and Eaton.	The whole Act.
3 & 4 Vict. c. 113.	The Ecclesiastical Commissioners Act, 1840.	Section sixty-nine.
21 & 22 Vict. c. 44.	The Universities and College Estates Act, 1858.	The whole Act.
23 & 24 Vict. c. 59.	The Universities and College Estates Act Extension, 1860.	The whole Act.
43 & 44 Vict. c. 46.	The Universities and College Estates Amendment Act, 1880.	The whole Act.
61 & 62 Vict. c. 55.	The Universities and College Estates Act, 1898.	The whole Act.
12 & 13 Geo. 5. c. 16.	The Law of Property Act, 1922	Such of the provisions of Part II. and the Tenth Schedule as are applied to universities and college estates, so far as they apply thereto.
15 Geo. 5. c. 5.	The Law of Property (Amendment) Act, 1924.	Section eleven and the Eleventh Schedule.

CHAPTER 25.

An Act to provide, during Twelve Months, for the Discipline and Regulation of the Army and Air Force. [29th April 1925.]

WHEREAS the raising or keeping of a standing army within the United Kingdom in time of peace, unless it be with the consent of Parliament, is against law:

And whereas it is adjudged necessary by His Majesty and this present Parliament that a body of land forces should be continued for the safety of the United Kingdom

and the defence of the possessions of His Majesty's Crown, and that the whole number of such forces should consist of one hundred and sixty thousand six hundred, including those to be employed at the depôts in the United Kingdom for the training of recruits for service at home and abroad, but exclusive of the numbers actually serving within His Majesty's Indian possessions:

7 & 8 Geo. 5. c. 51.

And whereas under the Air Force (Constitution) Act, 1917, His Majesty is entitled to raise and maintain the air force, and it is judged necessary that the whole number of such force should consist of thirty-six thousand, including those employed as aforesaid, but exclusive of the numbers serving as aforesaid, and the provisions of the Air Force Act are due to expire at the same dates as the provisions of the Army Act:

And whereas it is also judged necessary for the safety of the United Kingdom, and the defence of the possessions of this realm, that a body of Royal Marine forces should be employed in His Majesty's fleet and naval service, under the direction of the Lord High Admiral of the United Kingdom, or the Commissioners for executing the office of Lord High Admiral aforesaid:

And whereas the said marine forces may frequently be quartered or be on shore, or sent to do duty or be on board transport ships or vessels, merchant ships or vessels, or other ships or vessels, or they may be under other circumstances in which they will not be subject to the laws relating to the government of His Majesty's forces by sea:

And whereas no man can be forejudged of life or limb, or subjected in time of peace to any kind of punishment within this realm, by martial law, or in any other manner than by the judgment of his peers and according to the known and established laws of this realm; yet, nevertheless, it being requisite, for the retaining all the before-mentioned forces, and other persons subject to military law or to the Air Force Act, in their duty, that an exact discipline be observed and that persons belonging to the said forces who mutiny or stir up sedition, or desert His Majesty's service, or are guilty of crimes and offences to the prejudice of good order and military or air force discipline, be brought to a more exemplary and speedy punishment than the usual forms of the law will allow:

And whereas the Army Act and the Air Force Act will expire in the year one thousand nine hundred and twenty-five on the following days :—

(*a*) in Great Britain and Ireland, the Channel Islands, and the Isle of Man, on the thirtieth day of April; and

(*b*) elsewhere, whether within or without His Majesty's dominions, on the thirty-first day of July :

Be it therefore enacted by the King's most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

Short title.

1. This Act may be cited as the Army and Air Force (Annual) Act, 1925.

Army Act and Air Force Act to be in force for specified times.

2.—(1) The Army Act and the Air Force Act shall be and remain in force during the periods hereinafter mentioned, and no longer, unless otherwise provided by Parliament (that is to say) :—

(*a*) Within Great Britain and Ireland, the Channel Islands, and the Isle of Man, from the thirtieth day of April, one thousand nine hundred and twenty-five, to the thirtieth day of April, one thousand nine hundred and twenty-six, both inclusive; and

(*b*) Elsewhere, whether within or without His Majesty's dominions, from the thirty-first day of July, one thousand nine hundred and twenty-five, to the thirty-first day of July, one thousand nine hundred and twenty-six, both inclusive.

(2) The Army Act and the Air Force Act, while in force, shall apply to persons subject to military law or to the Air Force Act, as the case may be, whether within or without His Majesty's dominions.

(3) A person subject to military law or to the Air Force Act shall not be exempted from the provisions of the Army Act or Air Force Act by reason only that the number of the forces for the time being in the service of His Majesty, exclusive of the marine forces, is either greater or less than the numbers hereinbefore mentioned.

Prices in respect of billeting.

3. There shall be paid to the keeper of a victualling house for the accommodation provided by him in pursuance of the Army Act or the Air Force Act the prices specified in the First Schedule to this Act.

AMENDMENTS OF ARMY AND AIR FORCE ACTS.

PART I.

AMENDMENTS OF ARMY ACT APPLICABLE ALSO TO THE AIR FORCE ACT.

Abolition of death penalty in certain cases.

4. For the purpose of abolishing death as a penalty for certain offences committed not on active service the following amendments shall be made in the Army Act:—

(1) In subsection (1) of section six, paragraphs (*e*), (*f*) and (*j*) shall be omitted;

(2) In subsection (2) of section six, the following paragraphs shall be inserted after paragraph (*b*):

"or

"(*c*) Impedes the provost marshal or any assistant provost marshal or any officer or non-commissioned officer or other person legally exercising authority under or on behalf of the provost marshal, or, when called on, refuses to assist in the execution of his duty the provost marshal, assistant provost marshal, or any such officer, non-commissioned officer, or other person; or

"(*d*) Does violence to any person bringing provisions or supplies to the forces; or commits any offence against the property or person of any inhabitant of or resident in the country in which he is serving; or

"(*e*) Irregularly detains or appropriates to his own corps, battalion, or detachment any provisions or supplies proceeding to the forces, contrary to any orders issued in that respect";

(3) In subsection (1) of section eight after the words "court martial" there shall be inserted the words "if he commits such offence on active service," and after the word "mentioned" there shall be inserted the words "and if he commits

" such offence not on active service be liable " to suffer penal servitude or such less punish- " ment as is in this Act mentioned ";

(4) In subsection (1) of section nine after the words " court martial " there shall be inserted the words " if he commits such offence on active service," and after the word " mentioned " there shall be inserted the words " and if he commits " such offence not on active service be liable " to suffer penal servitude or such less punish- " ment as is in this Act mentioned."

Amendment of s. 18 of Army Act.

5. The following amendments shall be made in section eighteen of the Army Act (which relates to disgraceful conduct):—

(1) For the word " soldier " where that word first occurs there shall be substituted the words " person subject to military law; "

(2) The following paragraph shall be substituted for paragraph (2):—

" (2) Wilfully maims or injures himself or any other person subject to military law, whether at the instance of that person or not, with intent thereby to render himself or that person unfit for service, or causes himself to be maimed or injured by any person with intent thereby to render himself unfit for service; or "

(3) In paragraph (4) for the words " comrade or of an officer " there shall be substituted the words " person subject to military law."

Amendments of s. 46 of Army Act.

6. The following amendments shall be made in section forty-six of the Army Act (which relates to the power of a commanding officer):—

(i) in paragraph (*b*) of subsection (2) the words " any other punishment " shall be substituted for the word " detention ";

(ii) the following paragraph shall be inserted after paragraph (*d*) of subsection (2):—

" and

" (*e*) in addition to or without any other punishment may award such other minor

punishment as he is for the time being authorised to award, so however that a minor punishment shall not be awarded for any offence for which detention exceeding seven days is awarded";

(iii) in subsection (7) for the words "for any offence which" there shall be substituted the words "where the charge has been dismissed or the "offence";

(iv) in subsection (8) after the words "forfeiture of" there shall be inserted the word "ordinary," and after the words "unless he awards" there shall be inserted "no other punishment than";

(v) the following subsection shall be substituted for subsection (9):—

"(9) The power of dealing summarily with a case may be delegated by a commanding officer to any officer under his command in accordance with and subject to the King's Regulations:

"Provided that such officer shall not have power to inflict any punishment other than a minor punishment, or such fines for drunkenness as may be provided for by those Regulations."

Amendment of s. 47 of Army Act.

7. The following amendments shall be made in section forty-seven of the Army Act (which relates to the power of dealing summarily with charges against officers and warrant officers):—

(1) In subsection (1) for the words "also on active "service the General or Air Officer Commanding-"in-Chief in the Field," there shall be substituted the words "also in the case of a force on "service beyond the seas the general or air "officer commanding the force";

(2) In subsection (5), for the words "for any offence "which" there shall be substituted the words "where the charge has been dismissed or the "offence".

Amendment of s. 57 of Army Act.

8. In subsections (1) and (2) of section fifty-seven of the Army Act (which relates to commutation and remission of sentences), after the word "mentioned"

there shall be inserted the words "or, if such "punishment is cashiering awarded for an offence "under section sixteen of this Act, then for dismissal "from His Majesty's service or such less punishment "as is in this Act mentioned."

Amendment of s. 71 of Army Act.

9. The proviso to subsection (1) of section seventy-one of the Army Act (which relates to military command) is hereby repealed.

Amendment of provisions as to impressment of carriages.

10.—(1) The provisions of the Army Act relating to the impressment of carriages shall apply to all vehicles for carriage or haulage other than those specially constructed for use on rails, and there shall be paid in respect of carriages and animals furnished in pursuance of the said provisions the rates of remuneration commonly recognised or generally prevailing in the district at the time of impressment, and if any difference arises respecting the amount payable the amount shall be such as may be fixed by a certificate of a county court judge having jurisdiction in any place in which the carriage was furnished or through which it travels.

(2) With a view to carrying this section into effect and making various other alterations in the provisions of the Army Act relating to the impressment of carriages, the sections of the Army Act specified in the Second Schedule to this Act shall be amended in the manner shown in the second column of that schedule.

Amendment of s. 137 of Army Act.

11. In paragraph (4) of section one hundred and thirty-seven of the Army Act (which relates to penal stoppages from the ordinary pay of officers) after the word "public" there shall be inserted the words "or regimental".

Amendment of s. 138 of Army Act.

12. In subsection (1) of section one hundred and thirty-eight of the Army Act (which relates to penal stoppages from the ordinary pay of soldiers) for the word "imprisonment" there shall be substituted the words "penal servitude or imprisonment."

Amendment of s. 163 of Army Act.

13. In section one hundred and sixty-three of the Army Act (which relates to evidence), after paragraph (*l*) the following paragraph shall be inserted:—

"(*m*) Where an officer or soldier has been apprehended and on arrest taken to a police station in any place in any part of His Majesty's

dominions, or has on surrender been taken into custody at any such police station, then, for the purpose of any proceedings against that officer or soldier, a certificate purporting to be signed by the police officer in charge of that police station, stating the fact, date, and place of arrest or surrender, shall be evidence of the matters so stated."

Printing of Army Act.

14. Copies of the Army Act printed in accordance with the provisions of section eight of the Army (Annual) Act, 1885, shall be printed with such alterations in cross headings as the Clerk of the Parliaments may certify to be necessary or expedient in consequence of amendments made in the Army Act.

Application to air force.

15. References in this Part of this Act to the Army Act shall be deemed to include references to the Air Force Act, and the provisions of this Part of this Act shall, in their application to the Air Force Act, have effect as if for the words " section eight of the Army (Annual) " Act, 1885 " there were substituted the words " sub- " section (4) of section twelve of the Air Force (Constitu- " tion) Act, 1917," and as if for the word " regimental " there were substituted the word " service."

PART II.

AMENDMENTS OF ARMY ACT.

Amendment of ss. 183 & 190 of Army Act.

16.—(1) In section one hundred and eighty-three of the Army Act (which contains special provisions as to non-commissioned officers) for the words " an army schoolmaster " in both places where those words occur, there shall be substituted the words " an instructor, Army Educational Corps."

(2) In paragraph (5) of section one hundred and ninety of the Army Act (which relates to the interpretation of terms in that Act) the words " and includes an army " schoolmaster when not a warrant officer " shall be omitted.

Definition of " corps."

17.—(1) For paragraph (15) of section one hundred and ninety of the Army Act (which defines the expression " corps ") the following paragraph shall be substituted :—

" (15) The expression ' corps ' means any such body of His Majesty's military forces as may

from time to time be declared by Royal Warrant to be a corps for the purposes of this Act; so, however, that the Royal Marine forces (in this Act referred to as the Royal Marines) shall be formed into a separate corps; and where a corps comprises units of the territorial army belonging to two or more counties, the corps shall, for the purposes of section nine of the Territorial and Reserve Forces Act, 1907, be deemed to be a corps for each such county."

(2) Accordingly, the enactments hereinafter mentioned shall have effect subject to the following amendments:—

(*a*) In section eighty-three of the Army Act, for references to "corps of the regular forces" there shall be substituted references to "corps."

(*b*) In subsection (2) of section fourteen of the Reserve Forces Act, 1882, for the reference to "corps of the regular forces" there shall be substituted a reference to "corps."

(*c*) In subsection (2) of section seven of the Territorial and Reserve Forces Act, 1907, the words "and for the formation of such regiments, battalions, or other military bodies into corps, either alone or jointly with any other part of His Majesty's forces" shall be repealed.

(*d*) In section thirty-three of the Territorial and Reserve Forces Act, 1907, the words "and for the formation of such regiments, battalions, or other military bodies into corps, either alone or jointly with any other part of His Majesty's forces," and the word "such" wherever it occurs, shall be repealed.

Part III.

Amendments of Air Force Act.

18.—(1) The following proviso shall be substituted for proviso (6) to section forty-four of the Air Force Act (which provides for the scale of punishments by courts-martial):— **Amendment of ss. 44, 46 & 138 of Air Force Act.**

"(6) In addition to or without any other punishment, it shall be lawful for a court-martial

to order, in respect of an offence committed by an airman on active service, that the offender forfeit all ordinary pay for a period commencing on the day of sentence and not exceeding three months, and in respect of an offence committed by an airman (other than a non-commissioned officer) when not on active service, that the offender forfeit all such pay for a period commencing as aforesaid and not exceeding twenty-eight days."

(2) The following paragraph shall be inserted after paragraph (*d*) of subsection (2) of section forty-six of the Air Force Act (which relates to the power of a commanding officer) :—

"(*e*) In the case of an offence by an airman (other than a non-commissioned officer) when not on active service, may in addition to, or without any other punishment, order that the offender forfeit all ordinary pay for a period commencing on the day of sentence and not exceeding fourteen days."

(3) In proviso (*c*) to section one hundred and thirty-eight of the Air Force Act (which relates to penal stoppages from ordinary pay of airmen), the words "on active service" shall be omitted.

Amendment of s. 87 of Air Force Act.

19. In section eighty-seven of the Air Force Act (which relates to prolongation of service in certain cases), after the words "air-force service" in subsection (1) thereof and after the words "service beyond the seas" in subsection (2) thereof there shall be inserted the words "or while officers and men of the air force reserve are "called out to serve in defence of the British Islands "against actual or apprehended attack."

Amendment of provisions as to billeting.

20.—(1) The provisions of section one hundred and eight A of the Air Force Act (which relates to billeting in case of emergency) shall have effect in case of emergency notwithstanding that directions have not been given for embodying all or any part of the territorial army, and accordingly in subsection (1) of that section the words "where directions have been given for embodying all or "any part of the territorial force" shall be omitted.

(2) In subsection (4) of section one hundred and eighty-one of the Air Force Act, which contains modifications of the Act with respect to the auxiliary forces, after

the word "behalf" there shall be inserted the words "or when called out to serve in defence of the British "Islands against actual or apprehended attack."

21. In paragraph (10) of section one hundred and seventy-five of the Air Force Act (which defines the persons who are subject to that Act as officers) the words from "if an officer" to the end of the paragraph shall be omitted. Amendment of s. 175 of Air Force Act.

SCHEDULES.

FIRST SCHEDULE.

Section 3.

Accommodation to be provided.	Maximum Price.
Lodging and attendance for soldier where meals furnished.	Tenpence per night for the first soldier and eightpence per night for each additional soldier.
Breakfast as specified in Part I. of the Second Schedule to the Army and Air Force Acts.	Sevenpence each.
Dinner as so specified - - - -	Tenpence.
Supper as so specified - - - -	Fourpence.
Where no meals furnished, lodging and attendance, and candles, vinegar, salt, and the use of fire, and the necessary utensils for dressing and eating his meat.	Tenpence per night for the first soldier and eightpence per night for each additional soldier.
Stable room and ten pounds of oats, twelve pounds of hay, and eight pounds of straw per day for each horse.	Two shillings and fourpence per day.
Stable room without forage - - -	Sixpence per day.
Lodging and attendance for officer - -	Three shillings per night.

Note.—An officer shall pay for his food.

SECOND SCHEDULE.

AMENDMENT OF PROVISIONS AS TO IMPRESSMENT OF CARRIAGES.

Section.	How to be amended.
S. 112	At the end of the section the following subsection shall be inserted :— "(7) Where a carriage has one or more alternative bodies the carriage may be demanded with any one or more bodies, and where a carriage is used for haulage the carriage may be demanded with or without the vehicles ordinarily hauled."
S. 113	The following subsections shall be substituted for subsections (1) to (4) :— "(1) There shall be paid in respect of carriages and animals furnished in pursuance of the foregoing section of this Act the rates of payment commonly recognised or generally prevailing in the district at the time of impressment, and if any difference arises respecting the amount payable, the amount shall be such as may be fixed by a certificate of a county court judge having jurisdiction in any place in which the carriage or animal was furnished or through which it travelled. "(2) For the purposes of fixing such amount the provisions set out in the Sixth Schedule to this Act shall have effect. "(3) Where a sum has been paid or tendered by or on behalf of the Army Council under this section, that sum shall be deemed to be the amount due unless within three weeks of the date of the payment or tender an application is made to a county court judge for a certificate or formal notification is made to the Army Council that application for the certificate of a county court judge will be made in the event of a settlement not otherwise being arrived at. If such formal notification is made, the three weeks mentioned in this paragraph shall not be deemed to have commenced to run until the Army Council notifies the claimant that no further payment will be made beyond the amount tendered, except under a certificate of a county court judge.

Section.	How to be amended.	2nd Sch. —*cont.*
S. 113— *cont.*	"When formal notification is made to the Army Council, the sum already tendered may be accepted without prejudice to the right of applying to the county court judge. "(4) The possessor of any carriage or animal at the time of impressment shall be deemed to be the owner for the purposes of the procedure of impressment where it is not otherwise declared at the time, and payment made to the possessor shall be deemed to be payment to the owner. In the event of the property being vested in another person or persons, the possessor shall notify all others interested in the property and adjust the amount received in due proportion. In the event of any difference arising, the amounts shall be apportioned on a certificate of a county court judge as aforesaid."	
S. 115 -	In subsection (2) the words "(including motor-cars "and other locomotives, whether for the purpose "of carriage or haulage)," shall be omitted. In subsection (3A) after "specified in such order" there shall be inserted "notwithstanding that a "receipt may be given by the officer mentioned "in the warrant at the time of impressment" and at the end of the subsection the following shall be added:— "The carriages or horses mentioned in the order shall not be deemed to have been furnished until proper delivery has been made to the place and at the time stated in the order." The following provision shall be substituted for subsection (4):— "(4) The sum to be paid for any article shall be deemed to have been tendered when a formal receipt for the article setting forth the amount is handed to the owner or his representative but the property in a carriage or animal impressed shall be vested in the owner until such time as the carriage or animal has been duly furnished at the place and time stipulated." In subsection (10) "or carriages" shall be inserted after "horses" wherever that word occurs, and "or carriage" shall be inserted after "horse."	
S. 190 -	The following paragraph shall be inserted after paragraph (40):— "(40A) The expression "carriage" means a vehicle for carriage or haulage other than one specially constructed for use on rails."	

2ND SCH. —*cont.*

Section.	How to be amended.
Third Schedule.	The Third Schedule shall be omitted.
Sixth Schedule.	The following paragraph shall be substituted for paragraph 3:— "3. In the case of impressment for hire, the amount fixed by the certificate shall be such amount as appears to the county court judge to be a fair rate of hire for the class of article in the district in which it is impressed or over which it is required to work. In the case of a requisition for purchase the amount fixed by the certificate shall be such amount as appears to the county court judge to be the fair market value of the article requisitioned on the day on which it was required to be furnished as between a willing buyer and a willing seller. Where the owner of a carriage or horse has been required to deliver it at a distance from his premises the amount shall include such sum as the judge may consider reasonable to cover the cost of such delivery."

CHAPTER 26.

An Act to amend the British Empire Exhibition (Guarantee) Act, 1920, and the British Empire Exhibition (Amendment) Act, 1922, by increasing to one million one hundred thousand pounds the amount up to which a guarantee may be given thereunder, and by extending the operation of the said Acts to any loss resulting from the holding of the British Empire Exhibition in the year nineteen hundred and twenty-five.

[7th May 1925.]

10 & 11 Geo. 5. c. 74. 12 & 13 Geo. 5. c. 25.

WHEREAS by the British Empire Exhibition (Guarantee) Act, 1920, as amended by the British Empire Exhibition (Amendment) Act, 1922, the Board of Trade were authorised to guarantee up to an amount not exceeding one hundred thousand pounds any loss which might result from the holding of the British Empire Exhibition in the year nineteen

hundred and twenty-four, or as soon thereafter as might be:

And whereas the said Exhibition was opened on the twenty-third day of April, nineteen hundred and twenty-four, and was closed on the first day of November in that year:

And whereas it is anticipated that the said Exhibition will be re-opened for some period in the year nineteen hundred and twenty-five:

And whereas it is expedient that the amount up to which a guarantee may be given under the said Acts should be increased to one million one hundred thousand pounds, and that the said Acts should have effect as if they had authorised the guaranteeing of any loss resulting from the holding of a British Empire Exhibition in the years nineteen hundred and twenty-four and nineteen hundred and twenty-five:

Be it therefore enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Extension of limit of guarantee and extension of Acts to holding of exhibition in 1925.

1. The amount up to which a guarantee may be given by the Board of Trade under the British Empire Exhibition (Guarantee) Act, 1920, as amended by the British Empire Exhibition (Amendment) Act, 1922, in respect of any loss which may result from the holding of the British Empire Exhibition shall be increased from one hundred thousand pounds to one million one hundred thousand pounds, and the said Acts, as amended by the foregoing provision of this section, shall have effect as if they had authorised the giving of a guarantee in respect of loss resulting from the holding of a British Empire Exhibition in the years nineteen hundred and twenty-four and nineteen hundred and twenty-five.

Fair wages to be paid to persons employed in connection

2.—(1) The wages paid by any employer to persons employed by him in connection with the British Empire Exhibition shall, except where paid at a rate agreed upon by a joint industrial council representing the employer

with the British Empire Exhibition.

and the persons employed, not be less than would be payable if the employment were carried on under contract between a Government department and the employer containing a fair wage clause which complies with the requirements of any resolution of the House of Commons for the time being in force applicable to contracts of Government departments, and if any dispute arises as to what wages ought to be paid in accordance with this section it may be referred by the Minister of Labour to the industrial court for settlement.

(2) Where any award has been made by the industrial court upon a dispute referred to that court under this section, then as from the date of the award or from such later date as the court may direct, it shall be an implied term of the contract between every employer and worker to whom the award applies that the rate of wages to be paid under the contract shall, until varied in accordance with the provisions of this section, be in accordance with the award.

Short title.

3. This Act may be cited as the British Empire Exhibition (Guarantee) Act, 1925, and this Act and the British Empire Exhibition (Guarantee) Act, 1920, and the British Empire Exhibition (Amendment) Act, 1922, may be cited together as the British Empire Exhibition (Guarantee) Acts, 1920 to 1925.

CHAPTER 27.

An Act to amend the Charitable Trusts Acts, 1853 to 1914. [7th May 1925.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

Incorporation of official trustees.

1.—(1) The official trustees of charitable funds shall by that name be a body corporate for all purposes, and shall have an official seal which shall be officially and judicially noticed.

(2) The power of the Treasury under section four of the Charitable Trusts Act, 1887, to prescribe by regulations the mode in which the business of the said official trustees generally is to be conducted shall include a power to prescribe by regulations the manner in which the seal of the official trustees is to be kept, used and authenticated. 50 & 51 Vict. c. 49.

(3) A company shall not be entitled to refuse to enter the name of the said official trustees on its books by reason only that the official trustees are a corporation.

(4) Section eighteen of the Charitable Trusts Amendment Act, 1855, shall cease to have effect. 18 & 19 Vict. c. 124.

2. In section sixty of the Charitable Trusts Act, 1853, "March" shall be substituted for "February" as the month in which the Charity Commissioners are to make their annual report to His Majesty, and in section eighteen of the Charitable Trusts Act, 1860, "the thirty-first day of March" shall be substituted for "the fourteenth day of February" as the date on or before which the annual accounts of the official trustees are to be laid before Parliament. Alteration of dates for the making and presentation of certain reports and accounts. 16 & 17 Vict. c. 137. 23 & 24 Vict. c. 136.

3.—(1) This Act may be cited as the Charitable Trusts Act, 1925, and shall be construed as one with the Charitable Trusts Acts, 1853 to 1914, and together with those Acts may be cited as the Charitable Trusts Acts, 1853 to 1925. Short title, construction, citation and commencement.

(2) This Act shall come into operation two months after the passing thereof.

CHAPTER 28.

Sir Th. Supreme Court of Judicature (Consolidation) Act 1925 (c. 49)

An Act to amend the law with respect to the jurisdiction and business of the Supreme Court in England and with respect to the judges, officers and offices thereof and otherwise with respect to the administration of justice.

[7th May 1925.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present

Parliament assembled, and by the authority of the same, as follows:—

Assizes.

Power to dispense with holding of assizes in places where unnecessary.

1.—(1) If at any time it appears to the Lord Chief Justice that there is no business or no substantial amount of business to be transacted at the assizes then about to be held at any place on a circuit and that having regard to all the circumstances of the case it is desirable that an order should be made under this section, he may, with the concurrence of the Lord Chancellor, by order direct that assizes shall not on the occasion of that circuit be held at that place, and, where any such order is made, then, notwithstanding any enactment or custom to the contrary, assizes shall not on that occasion be held at the place specified in the order.

(2) There may be included in an order made under this section provision for any matters (including any of the matters mentioned in paragraph (3) of section two of the Winter Assizes Act, 1876) for which it appears to the Lord Chief Justice to be necessary or proper to make provision with a view to giving full effect to the order.

39 & 40 Vict. c. 57.

Power to include ex-judges in commissions of assize.

2. His Majesty may include in a commission of assize any person who has held the office of a judge of the Court of Appeal or of a judge of the High Court, but no person who has held office as aforesaid shall be required to act as commissioner of assize unless he consents so to do.

Supreme Court.

Trial with jury in High Court. 10 & 11 Geo. 5. c. 81. 8 & 9 Geo. 5. c. 23.

3. Section two of the Administration of Justice Act, 1920 (which relates to the mode of trial in the High Court), shall cease to have effect, and provision may be made by rules of court in the same manner as if the Juries Act, 1918, and section two of the Administration of Justice Act, 1920, had not passed, for prescribing in what cases trials in the High Court are to be with a jury and in what cases they are to be without a jury, and until such rules of court come into force the rules of court relating to the mode of trial in the High Court which

were in force immediately before the passing of the Juries Act, 1918, shall have effect.

Qualifications of judges of Supreme Court.

4.—(1) Any person being a barrister of not less than ten years' standing shall be qualified for appointment as a puisne judge of the High Court.

(2) Any person being a barrister of not less than fifteen years' standing or a judge of the High Court shall be qualified for appointment as a Lord Justice of Appeal.

(3) Any person qualified for appointment as a Lord Justice of Appeal or being a judge of the Court of Appeal shall be qualified for appointment as Lord Chief Justice, Master of the Rolls or President.

Power to appoint additional judge of Probate, Divorce and Admiralty Division, and amendment of 10 Edw. 7. and 1 Geo. 5. c. 12.

36 & 37 Vict. c. 66.

5.—(1) It shall be lawful for His Majesty from time to time to appoint one judge of the High Court in addition to the number of judges of that court authorised to be appointed by the Judicature Acts, 1873 to 1910.

(2) The judge so appointed shall, subject to such power of transfer as is authorised by the Supreme Court of Judicature Act, 1873, be attached to the Probate Division, and the law relating to the appointment and qualification of judges of the High Court, their duties, tenure, precedence, salary and pension and otherwise shall apply to a judge appointed under this section.

(3) Where under subsection (2) of section one of the Supreme Court of Judicature Act, 1910, an Address from both Houses of Parliament has, whether before or after the passing of this Act, been presented to His Majesty representing that the state of business in the King's Bench Division requires that a vacancy among the puisne judges of that Division should be filled, it shall be lawful for His Majesty from time to time without any further Address, to fill any vacancy which may arise among the said judges at any time within a period of one year next after the date of the presentation to His Majesty of the said Address.

(4) This section shall come into operation on the passing of this Act.

Qualifications for certain offices in Supreme Court.

6. A person shall not be qualified for appointment to any of the offices in the Supreme Court specified in the first column of the First Schedule to this Act unless he is a person of the description specified in the second column of that Schedule in respect of that office:

Provided that, notwithstanding anything in this section, any person who holds any office in the Supreme Court at the commencement of this Act shall be qualified for appointment to any office to which he might have been appointed if this Act had not passed.

Tenure of officers of Supreme Court. 11 & 12 Geo. 5. c. 56.

7.—(1) Any officer of the Supreme Court who by virtue of the provisions of section one of the Supreme Court Officers (Retirement, Pensions, &c.) Act, 1921, is required to vacate office at the end of the completed year of service in the course of which he attains the age of seventy-two years shall, subject to the provisions of the said section and subject as hereinafter provided, hold office during good behaviour:

Provided that the power to remove any such person from his office on account of misbehaviour shall be exercisable by the Lord Chancellor, and the Lord Chancellor shall have power to remove any such person from his office on account of inability to perform the duties of the office.

(2) Every officer of the Supreme Court, not being an officer to whom subsection (1) of this section applies, shall hold office during His Majesty's pleasure:

Provided that nothing in this subsection shall affect the tenure of any officer appointed before the commencement of this Act.

(3) In the application of this section to registrars of the Probate Division, the President shall be substituted for the Lord Chancellor.

Appointment of deputies for Supreme Court officers.

8.—(1) Where an officer of the Supreme Court is absent from illness or other reasonable cause, he may, with the approval of the Lord Chancellor and subject to the provisions of this section, appoint a deputy, and if being so absent he fails to make such an appointment, the Lord Chancellor may appoint a deputy.

(2) Every deputy appointed under this section shall have all the powers and authorities of the officer for whom he is appointed to act.

(3) A person shall not be qualified to be appointed under this section to act as a deputy in any office unless he is qualified for appointment to that office.

(4) Nothing in this section shall affect the power of the President under section thirty-five of the Court of Probate Act, 1858, to appoint any person to discharge the duties of any officer appointed under the Court of Probate Act, 1857, or the Court of Probate Act, 1858, or be taken to authorise either the Lord Chancellor or any officer so appointed as aforesaid to appoint a deputy in any case to which the said section thirty-five applies. 21 & 22 Vict. c. 95. 20 & 21 Vict. c. 77.

District registrars of High Court.

9.—(1) Any person being the registrar of a county court or being a solicitor of not less than seven years' standing shall be qualified for appointment as district registrar of the High Court.

(2) The Lord Chancellor may, if he thinks fit, appoint two persons to execute jointly the office of district registrar in any district registry, and may in any case where joint district registrars are appointed give directions with respect to the division between them of the duties of the office and may, as he thinks fit, on the death, resignation or removal of a joint district registrar, either appoint another person to be joint district registrar in the place of the person so dying, resigning or removed, or give directions that the continuing registrar shall act as sole registrar.

(3) On a vacancy occurring in the office of a district registrar, any person being a person qualified for appointment as district registrar may be appointed to act as provisional district registrar for such period not exceeding six months from the date on which the vacancy occurs as the Lord Chancellor may direct.

(4) The power to make appointments to the office of district registrar and provisional district registrar shall be vested in the Lord Chancellor.

(5) All acts authorised or required to be done by, to or before a district registrar may be done by, to or before a provisional district registrar appointed under this section, and a provisional district registrar shall receive in respect of the period during which he so acts remuneration on a scale not higher than the scale applicable in the case of the registrar of the district for which he is appointed to act.

(6) Every district registrar and provisional district registrar shall be an officer of the Supreme Court, and no person who is, or is acting as, the district registrar or the provisional district registrar of any district shall, either by himself or his partner, be directly or indirectly engaged as a solicitor or agent for a party to any proceeding whatsoever in the registry of that district.

Amendments as to business in central office and as to officers of Supreme Court. 42 & 43 Vict. c. 78.

10.—(1) Directions under section twelve of the Supreme Court of Judicature (Officers) Act, 1879, as to the business to be performed in, and the duties of the officers of, the central office of the Supreme Court shall, instead of being given by rules of court, be given by order of the Lord Chancellor.

(2) The clerks employed in the offices of the Supreme Court shall be classified in such manner as the Lord Chancellor, with the concurrence of the Treasury, may by order direct, and shall be employed in such capacities, as the Lord Chancellor may by order direct.

For the purposes of this subsection, the expression "the offices of the Supreme Court" shall include the department of the official solicitor to the Supreme Court, the bankruptcy department and the companies (winding-up) department, but shall not include the principal probate registry.

(3) The Lord Chancellor may from time to time as respects any class of officers in the Supreme Court, with the concurrence of the Treasury, determine the number of persons who may be appointed to be officers of that class, and section fourteen of the Court of Justice (Salaries and Funds) Act, 1869 (which relates to the appointment of officers) shall, so far as it relates to officers of the Supreme Court, cease to have effect.

32 & 33 Vict. c. 91.

(4) From and after the commencement of this Act, the power to appoint a person to be a clerk in the office of the master in lunacy shall be vested in and exercisable by the Lord Chancellor, and that office shall be included among the offices of the Supreme Court.

(5) The central office of the Supreme Court shall comprise and shall be deemed always to have comprised the officers and persons employed in the Court of Criminal Appeal.

Office of Accountant-General. 35 & 36 Vict. c. 44.

11.—(1) There shall be an Accountant-General of the Supreme Court, and all powers and duties which under the Court of Chancery (Funds) Act, 1872, or any Act amending that Act, may be exercised or are to be performed by the Paymaster-General shall become powers and duties of the Accountant-General, and references to the Paymaster-General in those Acts or in any rules made under or for the purposes of those Acts before the commencement of this Act shall be construed as references to the Accountant-General.

(2) All money, securities and other property vested in the Paymaster-General for or on behalf of the Supreme Court at the commencement of this Act shall, by virtue of this Act and without any transfer or assignment, become vested in the Accountant-General.

(3) The Clerk of the Crown shall be the Accountant-General.

(4) The office of the Accountant-General shall be an office of the Supreme Court.

Amendment as to preparation of annual accounts of Supreme Court. 38 & 39 Vict. c. 77.

12. Section twenty-eight of the Supreme Court of Judicature Act, 1875, which requires the Treasury to prepare annually an account of the receipts and expenditure in respect of the High Court and the Court of Appeal, and of certain other matters, shall have effect as though for the words "the Treasury shall cause to be prepared annually an account," and for the words "make "such returns and give such information as the Treasury "may from time to time require for the purpose of "enabling them to make out the said account," there were respectively substituted the words "the Lord Chancellor shall cause to be prepared annually an account," and the

words "make such returns and give such information as "the Lord Chancellor may from time to time require for "the purpose of enabling him to make out the said "account."

Accounts of funds in court. 35 & 36 Vict. c. 44. 46 & 47 Vict. c. 29.

13.—(1) Accounts in such form as the Treasury may direct, including all such accounts as may be necessary for carrying into effect the orders of the High Court, shall be kept for the purposes of the Court of Chancery (Funds) Act, 1872, as amended by the Supreme Court of Judicature (Funds, &c.) Act, 1883, and this Act, and separate accounts shall be kept for the transactions under those Acts of the Accountant-General of the Supreme Court and of the National Debt Commissioners and of the liability of the Consolidated Fund under those Acts.

The accounts to be kept as aforesaid shall be examined by the Comptroller and Auditor-General, and the Treasury shall cause copies of the accounts certified by the Comptroller and Auditor-General, together with his report thereon, to be sent to the Lord Chancellor and to be laid before both Houses of Parliament.

(2) The following paragraph shall be substituted for paragraph (9) of section eighteen of the Court of Chancery (Funds) Act, 1872 (which gives power to the Lord Chancellor, with the concurrence of the Treasury, to make rules for carrying that Act into effect):—

"(9) Dealing with—

(*a*) accounts on which the balance of money and securities together amounts to less than five pounds;

(*b*) accounts on which that balance amounts to five pounds or more, but less than fifty pounds, and which have not been dealt with for a period of five years;

(*c*) accounts on which that balance amounts to fifty pounds or more and which have not been dealt with for a period of fifteen years;

and providing for the publication of lists of all or any of such last-mentioned accounts."

Distribution of business in High Court.

14.—(1) The Lord Chancellor may, if at any time it appears to him desirable so to do with a view to the more convenient administration of justice, by order direct that any jurisdiction vested in the High Court in respect of any matter which by any enactment or any rule or order made under any enactment is assigned to any Division shall, notwithstanding that enactment, rule or order, be assigned to such other Division as may be specified in the order and shall be exercised either by any special judge or judges or by all the judges of that other Division:

Provided that an order shall not be made under this subsection except with the concurrence both of the president of the Division to which the jurisdiction is at the time assigned and of the president of the Division to which the jurisdiction is to be transferred.

(2) Where under any enactment a right of appeal to the High Court or to any Division is given from decisions given by county courts in pursuance of the jurisdiction vested in county courts in respect of any matter, the Lord Chancellor may, notwithstanding anything in any enactment, by order direct to which Division the appeal shall lie.

Rules of Supreme Court.

15.—(1) Rules of court may be made under the Judicature Acts, 1873 to 1910, for the following purposes:—

(*a*) For regulating and prescribing the procedure (including the method of pleading) and the practice to be followed in the Court of Appeal and the High Court respectively in all causes and matters whatsoever in or with respect to which those courts respectively have for the time being jurisdiction (including the procedure and practice to be followed in the offices of the Supreme Court and in district registries), and any matters incidental to or relating to any such procedure or practice, including (but without prejudice to the generality of the foregoing provision) the manner in which, and the time within which, any applications which under this or any other Act are to be made to the

Court of Appeal or to the High Court shall be made:

(*b*) For regulating and prescribing the procedure on appeals from any court or person to the Court of Appeal or the High Court, and the procedure in connection with the transfer of proceedings from any inferior court to the High Court or from the High Court to any inferior court:

(*c*) For regulating the sittings of the Court of Appeal and the High Court, of the divisional courts of the High Court, and of the judges of the High Court whether sitting in court or in chambers:

(*d*) For prescribing what part of the business which may be transacted and of the jurisdiction which may be exercised by judges of the High Court in chambers may be transacted or exercised by masters of the Supreme Court, registrars of the Probate Division, or other officers of the Supreme Court:

(*e*) For regulating any matters relating to the costs of proceedings in the Court of Appeal or the High Court:

(*f*) For regulating and prescribing the procedure and practice to be followed in the Court of Appeal or the High Court in cases in which the procedure or practice is regulated by enactments in force at the commencement of this Act (including so much of any of the Acts set out in the Second Schedule to this Act as is specified in the third column of that Schedule):

(*g*) For repealing any enactments which relate to matters with respect to which rules are made under this section:

(*h*) For regulating or making provision with respect to any other matters which are regulated or with respect to which provision is made by the rules of the Supreme Court in force at the commencement of this Act, or by any rules or regulations so in force with respect to practice

and procedure in matrimonial causes or with respect to applications and proceedings under the Legitimacy Declaration Act, 1858. 21 & 22 Vict. c. 93.

(2) No rule of the Supreme Court which may involve an increase of expenditure out of public funds shall be made except with the concurrence of the Treasury, but the validity of a rule of the Supreme Court shall not in any proceedings in any court be called in question either by the court or by any party to the proceedings on the ground only that it was a rule to which the concurrence of the Treasury was necessary and that the Treasury did not concur or are not expressed to have concurred in the making thereof.

(3) Section one of the Rules Publication Act, 1893 (which requires notice to be given of a proposal to make statutory rules) shall not apply to rules of the Supreme Court. 56 & 57 Vict. c. 66.

(4) All rules of court made before the commencement of this Act under enactments repealed by this Act, and all rules and regulations with respect to practice and procedure in matrimonial causes or with respect to applications and proceedings under the Legitimacy Declaration Act, 1858, made before the commencement of this Act under section fifty-three of the Matrimonial Causes Act, 1857, or under that section as applied by section four of the Legitimacy Declaration Act, 1858, shall, notwithstanding the repeal of enactments effected by this Act, continue in force and shall have effect as if made under this section. 20 & 21 Vict. c. 85.

(5) Nothing in this section shall affect the power conferred by section two hundred and thirty-seven of the Companies (Consolidation) Act, 1908, or by section one hundred and thirty-two of the Bankruptcy Act, 1914, of making general rules for carrying into effect the objects of those Acts respectively, or the power conferred on the President by section thirty of the Court of Probate Act, 1857, as applied by section eighteen of the Supreme Court of Judicature Act, 1875, of making rules and orders with respect to the practice and procedure in non-contentious probate business, and the power to make rules of court under this section shall not extend to the matters with respect to which rules or orders may be made by virtue of the enactments mentioned in this subsection. 8 Edw. 7. c. 69. 4 & 5 Geo. 5. c. 59.

Provision as to fixing of fees to be taken in Supreme Court.

16. Any enactment authorising the making of rules of court for imposing or fixing the amount of any fees to be taken in connection with proceedings in the Supreme Court shall cease to have effect, and provision for imposing or fixing the amount of the fees to which any such enactment relates may be made by means of orders under section twenty-six of the Supreme Court of Judicature Act, 1875:

Provided that nothing in this section shall—

(1) apply to the fees to be taken in connection with non-contentious probate business; or

(2) affect the validity of any such rule of court made before the commencement of this Act, and any such rule shall have effect as if it were an order made under the said section twenty-six.

Scheme for establishment of district probate registries.

17.—(1) Subject as hereinafter provided in this section, the provisions of section thirteen of the Court of Probate Act, 1857, and Schedule A to that Act (which make provision with respect to the establishment of district probate registries) shall cease to have effect, and district probate registries shall be established at the places mentioned in, and otherwise in accordance with, the Scheme set out in the Third Schedule to this Act.

(2) In the case of a district probate registry to be established at a place at which there is no district probate registry at the commencement of this Act, the registry shall be established at such date as the President may, with the concurrence of the Lord Chancellor, determine, and no district probate registry established by the said section thirteen shall be discontinued until such date as may be so determined.

(3) The President may from time to time, with the concurrence of the Lord Chancellor and the Treasury, by order modify or vary the said Third Schedule:

Provided that, before any order is made under this subsection, a draft thereof shall be laid before both Houses of Parliament, and the order shall not be made unless both Houses by resolution approve the draft either without modification or addition or with modifications or additions to which both Houses agree, and on the draft

being so approved the order may be made in the form of the draft as approved.

(4) His Majesty may by Order in Council make such adaptations of any enactments as may appear to Him to be rendered necessary or expedient by reason of the provisions of this section.

Extension of power to make grants of probate and administration in district probate registries.

18.—(1) The power of a district probate registrar to grant probate of a will or letters of administration may be exercised whether the testator or intestate, as the case may be, had or had not at the time of his death a fixed place of abode within the district of the registry, and accordingly the words "if it shall appear by affidavit of "the person or some or one of the persons applying for "the same that the testator or intestate, as the case may "be, at the time of his death had a fixed place of abode "within the district in which the application is made, "such place of abode being stated in the affidavit," in section forty-six of the Court of Probate Act, 1857, shall cease to have effect.

(2) Notwithstanding anything in section sixty-three of the Court of Probate Act, 1857, it shall not be necessary to give notice of a caveat entered in the principal registry to the district probate registrar of the district, if any, in which it is alleged that the deceased resided at the time of his death unless the registrar of the principal registry thinks it expedient so to do.

(3) The provisions of this section shall have effect subject to such rules and orders as may be made by the President in pursuance of section thirty of the Court of Probate Act, 1857, and shall come into operation on such date as the President, with the concurrence of the Lord Chancellor, may direct.

County Courts.

Trial with jury in county courts and other inferior courts of civil jurisdiction.

19.—(1) The following provisions shall have effect in relation to the trial of actions in a county court or any other inferior court of civil jurisdiction:—

(*a*) In actions within the equity jurisdiction of the court, and in actions in which the amount claimed does not exceed five pounds, the trial shall, unless otherwise ordered by the court, be without a jury:

(*b*) Any action, not being an action to which paragraph (*a*) of this subsection applies, in which there is a claim in respect of libel, slander, malicious prosecution, false imprisonment, seduction or breach of promise of marriage, shall, if any party thereto so requires, be tried with a jury:

(*c*) Any action, not being an action to which paragraph (*a*) or paragraph (*b*) of this subsection applies, shall, if any party thereto so requires, be tried with a jury, unless the court is satisfied on an application made by any party thereto that the action is more fit to be tried without a jury.

(2) In this section the expression "action" includes any matter or other proceeding requiring to be tried, and the expression "equity jurisdiction" in relation to a county court means the equity jurisdiction given to county courts by section sixty-seven of the County Courts Act, 1888.

51 & 52 Vict. c. 43.

Amendment of s. 11 of County Courts Act, 1919.

9 & 10 Geo. 5. c. 73.

20. The following proviso shall be substituted for proviso (ii) to subsection (1) of section eleven of the County Courts Act, 1919 (which relates to costs of actions commenced in the High Court which could have been commenced in a county court)—

"(ii) if in any action the claim is for a debt or liquidated demand only for a sum of twenty pounds or upwards and—

(*a*) the defendant pays the amount claimed or a sum of not less than twenty pounds within the time limited in that behalf by the endorsement made on the writ in accordance with the rules of the Supreme Court; or

(*b*) the plaintiff, within twenty-eight days after the service of the writ or within such further time as may be allowed by the court or a judge, obtains judgment in default of appearance or of defence for a sum of twenty pounds or upwards; or

(*c*) the plaintiff, within twenty-eight days after the service of the writ or within such further time as may be allowed by the court or a judge, obtains under any rule of the

Supreme Court providing for summary judgment without trial an order empowering him to sign judgment for a sum of twenty pounds or upwards, either unconditionally or unless that sum is paid into court or to the plaintiff's solicitor;

the plaintiff shall, unless otherwise ordered by the court or a judge, be entitled to costs on such scale as may be prescribed by rules of court."

Transfer to county court of money recovered in High Court by infants, &c.

Repealed by the Supreme Court of Judicature (Consolidation) Act 1925

21.—(1) Where in any cause or matter in the King's Bench Division or in an Admiralty action in the Probate Division money is in any manner recovered by or on behalf of, or adjudged or ordered to be paid to or for the benefit of, a person who is an infant or of unsound mind, the High Court or a judge may order the money or any part thereof to be paid into or transferred to the county court of the district in which that person resides or such other county court as the High Court or judge may order, and the money or the part thereof to which the order relates shall thereupon be paid or transferred accordingly, and shall, subject to any special order or direction of the High Court or a judge and to county court rules, be invested, applied or otherwise dealt with for the benefit of that person in such manner as the county court in its discretion thinks fit.

(2) The provisions of this section shall apply to money which in proceedings under the Fatal Accidents Acts, 1846 to 1908, is recovered by or adjudged or ordered to be paid to the widow of the person killed as they apply to money recovered by or adjudged or ordered to be paid to an infant.

(3) The Lord Chancellor may, with the concurrence of the Treasury, by order prescribe the fees to be charged in respect of the payment and investment of money or the application thereof or dealing therewith under this section.

(4) Where before the commencement of this Act money recovered in any cause or matter in the King's Bench Division by or on behalf of a person who is an infant or of unsound mind has been paid to the Public Trustee, it shall be lawful for the Public Trustee to pay that money, or so much of it as remains in his possession into the county court of the district in which that person

resides, and money so transferred shall be invested, applied or dealt with in the same manner as if it had been paid into the county court under subsection (1) of this section.

(5) County court rules may be made for the purpose of carrying into effect the provisions of this section so far as they relate to the receipt of money into county courts and the investment thereof or application thereof or dealing therewith and the duties of registrars of county courts, and any such rules may provide for the transfer of money paid into a county court under this section or the investment representing any such money from one county court to another.

Miscellaneous.

Registration of deeds of arrangement. 4 & 5 Geo. 5. c. 47.

22.—(1) The office for the registration of deeds of arrangement under the Deeds of Arrangement Act, 1914 (in this section referred to as "the Act of 1914"), shall be transferred to the Board of Trade, and the registrar for the purposes of the Act of 1914 shall be appointed by the Board of Trade, and references in that Act to the registrar of bills of sale or to the registrar for the purposes of that Act shall be construed as references to the registrar so appointed.

(2) Subsection (1) of section five of the Act of 1914 (which provides that a copy of every deed to be registered shall be presented to the registrar) shall have effect as if it provided that there shall be presented to the registrar such number of copies of the deed and of every schedule or inventory annexed thereto or referred to therein as he may deem to be necessary for the purpose of carrying out the requirements of the Act of 1914 as amended by this section.

(3) Paragraph (*c*) of section six of the Act of 1914 (which provides that a short statement of the nature and effect of the deed shall be entered in the register) shall cease to have effect.

(4) Subsection (2) of section twenty-six of the Act of 1914 (which provides that section twenty-six of the Supreme Court of Judicature Act, 1875, as amended by any subsequent enactment, shall apply to fees under the Act of 1914), shall apply only to fees to be taken in the Supreme Court in respect of matters arising under the

Act of 1914 as amended by this section, and all other fees whatsoever to be taken under the Act of 1914 shall be prescribed by order made by the Lord Chancellor with the concurrence of the Treasury and not otherwise, and all such other fees shall be paid into such account as the Treasury may direct.

(5) Subject to the provisions of subsection (4) of this section, rules for carrying into effect the provisions of the Act of 1914, as amended by this section, other than the provisions of section seven thereof, may be made by the Lord Chancellor with the concurrence of the President of the Board of Trade, and, subject as aforesaid, the expression "prescribed" in the Act of 1914 shall mean prescribed by rules made under this subsection.

(6) This section shall be construed as one with the Act of 1914.

Local registration of bills of sale under Bills of Sale Acts, 1878 and 1882. 45 & 46 Vict. c. 43.

23.—(1) Section eleven of the Bills of Sale Act (1878) Amendment Act, 1882 (which makes provision for the local registration of the contents of bills of sale), shall have effect as if it required the registrar of bills of sale to transmit to county court registrars copies of the bills instead of abstracts of the contents of the bills, and references in that section to the abstract transmitted and the abstract registered shall be construed accordingly.

41 & 42 Vict. c. 31.

(2) Section ten of the Bills of Sale Act, 1878, shall have effect as though it required the presentation to the registrar on the registration of a bill of sale, in addition to the copy of the bill of sale mentioned in paragraph (2) of that section, of such number of copies of the bill and every schedule and inventory annexed thereto as the registrar may deem to be necessary for the purpose of carrying out the requirements of the said section eleven as amended by this section.

Administration bonds.

24.—(1) Every person to whom a grant of administration is made shall give a bond (in this section referred to as "an administration bond") to the senior registrar of the Probate Division by the name of "the principal probate registrar," and, subject to the provisions of this section, if the principal probate registrar, or, where the grant was made in a district registry, the district probate registrar, so requires, with one or more sureties conditioned for duly collecting, getting in, and administering the real and personal estate of the deceased.

Sections 24 & 26 are repealed by the Supreme Court of Judicature (Consolidation) Act 1925

(2) The principal probate registrar for the time being shall have power to enforce any administration bond or to assign it in accordance with the provisions of this section to some other person.

(3) An administration bond shall be in such form as may be directed by rules and orders made under section thirty of the Court of Probate Act, 1857.

(4) Where it appears to the satisfaction of the court or a judge that the condition of an administration bond has been broken, the court or judge may, on an application in that behalf, order that the bond shall be assigned to such person as may be specified in the order, and the person to whom the bond is assigned in pursuance of the order shall be entitled to sue thereon in his own name as if it had been originally given to him instead of to the principal probate registrar, and to recover thereon as trustee for all persons interested the full amount recoverable in respect of the breach of the condition thereof.

(5) Without prejudice to any proceedings instituted before the date of the commencement of this Act, any administration bond given before that date under any enactment repealed by this Act, or which is to be enforceable as if it had been given under any such enactment, may be enforced or assigned as if it had been given to the principal probate registrar under this section.

(6) Nothing in this section shall require the Solicitor for the affairs of His Majesty's Treasury, when applying for or obtaining administration for the use or benefit of His Majesty, to give an administration bond.

(7) Rules and orders may be made under section thirty of the Court of Probate Act, 1857, for providing that sureties to administration bonds shall not be required when the grant is made to a trust corporation within the meaning of the Law of Property Act, 1922, or to two or more individuals, or in any other proper case.

12 & 13 Geo. 5. c. 16.

(8) The provisions of this section shall apply to any bond to be given by a receiver of real estate under section twenty-one of the Court of Probate Act, 1858, as they apply to an administration bond.

Enrolment and engrossment of instruments.

25.—(1) Any instrument which is required or authorised under or in pursuance of the provisions of any enactment to be enrolled or engrossed or enrolled and engrossed in any manner in the Supreme Court shall be deemed to have been duly enrolled, engrossed, or enrolled and engrossed in accordance with those provisions if it is written on such material and has been filed or otherwise preserved in such manner as the Master of the Rolls may by order direct.

(2) The power of the Master of the Rolls to prescribe the fees to be paid on the enrolment and filing of deeds under section twenty of the Administration of Justice Act, 1920, shall be exercised by him subject to the concurrence of the Treasury.

Provision for facilitating production of documents filed in or in custody of central office.

26.—(1) Rules may be made under this section for providing that, in any case where a document filed in or in the custody of any department of the central office of the Supreme Court is required to be produced to any court or tribunal (including an umpire or arbitrator) sitting elsewhere than at the Royal Courts of Justice, it shall not be necessary for an officer of the department, whether served with a subpœna in that behalf or not, to attend for the purpose of producing the document, and that the document may be produced to the court or tribunal by sending it by registered post, together with a certificate in the form prescribed by the rules to the effect that the document has been filed in, or is in the custody of, the department, to such judge or officer of the court as may be so prescribed, and any such certificate shall be prima facie evidence of the facts stated therein.

(2) Rules made under this section may contain provisions for securing the safe custody and return to the proper department of the central office of any document sent to a court or tribunal in pursuance of the rules, and such other provisions as appear to the rule-making authority necessary or expedient for carrying this section into effect.

(3) Rules for the purposes of this section may be made by the Lord Chancellor, the Lord Chief Justice and the Senior Master of the Supreme Court (King's Bench Division), and all such rules shall be laid before Parliament.

Repeal of certain obsolete enactments relating to administration of justice.

27. Whereas the enactments set out in the Fourth Schedule to this Act have to the extent specified in the third column of that Schedule by lapse of time or otherwise become unnecessary or obsolete, and it is desirable that they should, with a view to the consolidation of the enactments relating to the Supreme Court, be forthwith repealed:

Now, therefore, the enactments aforesaid shall be repealed to the extent specified as aforesaid.

Power to revoke and vary orders.

28. Any order made under this Act by the Lord Chancellor, the Lord Chief Justice or the President may at any time be revoked, varied or amended by a subsequent order made under this Act by the Lord Chancellor, the Lord Chief Justice or the President, as the case may be.

Short title, interpretation, extent, repeal and commencement.

29.—(1) This Act may be cited as the Administration of Justice Act, 1925.

(2) In this Act unless the context otherwise requires—

The expression "Division" means Division of the High Court:

The expression "Probate Division" means Probate, Divorce and Admiralty Division:

The expression "Lord Chief Justice" means Lord Chief Justice of England:

The expression "President" means President of the Probate Division:

The expression "solicitor" means solicitor of the Supreme Court.

(3) This Act shall not extend to Scotland or Northern Ireland.

(4) The enactments set out in the Fifth Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule.

(5) This Act shall, save as therein otherwise expressly provided, come into operation on the first day of October, nineteen hundred and twenty-five.

SCHEDULES.

FIRST SCHEDULE.

Section 6.

Repealed by the Supreme Court of Judicature (Consolidation) Act 1925

QUALIFICATIONS FOR CERTAIN OFFICES IN THE SUPREME COURT.

Office.	Persons qualified for appointment.
1. Permanent Secretary to the Lord Chancellor and Clerk of the Crown.	1.—(i) A practising barrister of not less than ten years' standing; or (ii) A barrister of not less than ten years' standing who has during the ten years immediately preceding his appointment been employed in some legal capacity under the State, or who has during part of that period been employed in such a capacity and during the remainder of that period been in practice as a barrister.
2. Master, King's Bench Division (including the King's Coroner and Attorney and Master of the Crown Office).	2.—(i) A practising barrister of not less than ten years' standing; or (ii) An official referee; or (iii) A master in lunacy.
3. Official Referee -	3.—(i) A practising barrister of not less than ten years' standing; or (ii) A master, King's Bench Division; or (iii) A master in lunacy.
4. Master in Lunacy	4.—(i) A practising barrister of not less than ten years' standing; or (ii) A master, King's Bench Division; or (iii) An official referee.
5. Registrar in Bankruptcy of the High Court.	5.—A practising barrister or practising solicitor of not less than ten years' standing.

1ST SCH. —*cont.*

Office.	Persons qualified for appointment.
6. Master, Chancery Division.	6.—(i) A practising solicitor of not less than ten years' standing; or (ii) A master, Taxing Office, provided he has been a practising solicitor of not less than ten years' standing; or (iii) The official solicitor to the Supreme Court, provided he has been a practising solicitor of not less than ten years' standing.
7. Master, Taxing Office.	7.—(i) A practising solicitor of not less than ten years' standing; or (ii) An admitted solicitor of not less than ten years' standing who has during the ten years immediately preceding his appointment been employed as deputy or assistant master or as deputy or assistant to the official solicitor or as a clerk in the offices of the Royal Courts of Justice, or who has during part of that period been employed as such deputy or assistant or clerk and during the remainder of that period been in practice as a solicitor, provided that there shall at no time be more than one taxing master who shall have been appointed by virtue of the qualification specified in this paragraph; or (iii) A master, Chancery Division; or (iv) The official solicitor to the Supreme Court, provided he has been a practising solicitor of not less than ten years' standing.
8. Legal Visitor in Lunacy.	8. A practising barrister or practising solicitor of not less than ten years' standing.
9. Official Solicitor to the Supreme Court.	9.—(i) A practising solicitor of not less than ten years' standing; or (ii) An admitted solicitor of not less than ten years' standing who has during the ten years immediately preceding his appointment been employed as deputy or assistant

9. Official Solicitor to the Supreme Court—*cont.*	master or as deputy or assistant to the official solicitor or as a clerk in the offices of the Royal Courts of Justice, or who has during part of that period been employed as such deputy or assistant or clerk and during the remainder of that period been in practice as a solicitor; or (iii) A master, Chancery Division; or (iv) A master, Taxing Office.	1ST SCH. —*cont.*

For the purposes of this Schedule, any persons who, having been called to the bar or admitted as solicitors before the fourth day of August, nineteen hundred and fourteen, have practised as barristers or solicitors for a period of, or periods amounting in the aggregate to, not less than ten years shall, if they served in His Majesty's Forces in the late war, be deemed to be practising barristers and practising solicitors respectively.

SECOND SCHEDULE.

Section 15.

Repealed by the Supreme Court of Judicature (Consolidation) Act 1925

ENACTMENTS CONTAINING AND REGULATING MATTERS WITH RESPECT TO WHICH RULES OF COURT MAY BE MADE.

Session and Chapter.	Title or Short Title.	Enactments affected.
4 Will. & Mar. c. 18.	An Act to prevent malicious informations in the Court of King's Bench.	The whole Act so far as unrepealed.
8 & 9 Will. 3. c. 11.	An Act for the better preventing of frivolous and vexatious suits.	The whole Act so far as unrepealed.
4 & 5 Anne c. 3.	An Act for the Amendment of the Law and the better Advancement of Justice.	Sections twelve and thirteen.
7 Geo. 2. c. 20	The Mortgage Act, 1733.	The whole Act.
39 & 40 Geo. 3. c. 36.	The Transfer of Stock Act, 1800.	The whole Act so far as unrepealed.
10 Geo. 4. c. 13.	The Court Funds Act, 1829.	The whole Act so far as unrepealed.
11 Geo. 4. & 1 Will 4. c. 36.	The Contempt of Court Act, 1830.	The whole Act so far as unrepealed.

2ND SCH. —*cont.*

Session and Chapter.	Title or Short Title.	Enactments affected.
2 & 3 Will. 4. c. 58.	The Contempt of Court Act, 1832.	The whole Act so far as unrepealed.
3 & 4 Will. 4. c. 42.	The Civil Procedure Act, 1833.	Sections sixteen and eighteen.
1 & 2 Vict. c. 110.	The Judgments Act, 1838.	Sections fourteen and fifteen.
3 & 4 Vict. c. 65.	The Admiralty Court Act, 1840.	Sections seven, eight, and nine.
3 & 4 Vict. c. 82.	The Judgments Act, 1840.	The whole Act so far as unrepealed.
5 Vict. c. 5 -	The Court of Chancery Act, 1841.	Section four.
5 & 6 Vict. c. 86.	The Exchequer Court Act, 1842.	The whole Act so far as unrepealed.
5 & 6 Vict. c. 97.	The Limitations of Actions and Costs Act, 1842.	Sections four and five.
12 & 13 Vict. c. 109.	The Petty Bag Act, 1849.	The whole Act so far as unrepealed.
15 & 16 Vict. c. 76.	The Common Law Procedure Act, 1852.	Sections one hundred and twenty-six, one hundred and twenty-seven, one hundred and thirty-two, two hundred and ten to two hundred and fourteen, and two hundred and seventeen to two hundred and twenty.
20 & 21 Vict. c. 77.	The Court of Probate Act, 1857.	Sections twenty-four, twenty-six and thirty-one.
20 & 21 Vict. c. 85.	The Matrimonial Causes Act, 1857.	Sections thirty-nine, forty-one to forty-four, forty-six, and forty-nine.
21 & 22 Vict. c. 93.	The Legitimacy Declaration Act, 1858.	Section three.
21 & 22 Vict. c. 95.	The Court of Probate Act, 1858.	Section twenty-three.
21 & 22 Vict. c. 108.	The Matrimonial Causes Act, 1858.	Section thirteen.
23 & 24 Vict. c. 126.	The Common Law Procedure Act, 1860.	Section seventeen.
23 & 24 Vict. c. 149.	The Court of Chancery Act, 1860.	Sections two, three, five, and six.
24 & 25 Vict. c. 10.	The Admiralty Court Act, 1861.	Sections sixteen, eighteen, twenty-five, twenty-six, twenty-eight, thirty-three, and thirty-four.
36 & 37 Vict. c. 66.	The Supreme Court of Judicature Act, 1873.	Sections forty-six, sixty-four and sixty-six.

THIRD SCHEDULE.

Section 17.

Repealed by the Supreme Court of Judicature (Consolidation) Act 1925

Scheme for Establishment of District Probate Registries.

Group.	Registries.	Sub-registries.
1	Newcastle Durham Carlisle	
2	Leeds Sheffield York	
3	Manchester	
4	Liverpool Lancaster	
5	Chester	Bangor. Shrewsbury.
6	Lincoln Nottingham Leicester	Derby.
7	Peterborough Norwich Ipswich	
8	Birmingham Oxford	Northampton.
9	Cardiff	Hereford. Gloucester. Carmarthen.
10	Bristol Exeter	Bodmin.
11	Southampton Lewes	Salisbury.

Notes.

1. The place first mentioned in the second column of the foregoing Table in relation to each group shall be the chief registry of the group, and the registrar of that place shall by virtue of his office be the registrar of the other registries and of any sub-registries in the group.

3RD SCH. —*cont.*

2. If the President, with the concurrence of the Lord Chancellor and the Treasury and after consultation with the council of the borough of Cardiff, thinks fit so to direct, Llandaff shall be substituted for Cardiff as the chief registry of Group 9.

3. In addition to the places mentioned in the third column of the said Table, there shall be a district probate sub-registry at Canterbury which shall be under the management of the principal probate registry.

Section 27.

FOURTH SCHEDULE.

OBSOLETE ENACTMENTS.

Session and Chapter.	Title or Short Title.	Extent of Repeal.
8 Eliz. c. 2 -	An Acte whereby the Defendant maye recover his Costes beinge wrongfully vexed.	The whole Act.
34 Geo. 3 c. 58.	The Lancaster Palatine Courts Act, 1794.	The whole Act.
7 Will. 4 & 1 Vict. c. 30.	The Superior Courts (Officers) Act, 1837.	Section nineteen.
3 & 4 Vict. c. 65.	The Admiralty Court Act, 1840.	Sections twenty and twenty-one.
5 & 6 Vict. c. 103.	The Court of Chancery Act, 1842.	In section eleven the words from "and every solicitor" to the end of the section.
15 & 16 Vict. c. 73.	The Common Law Courts Act, 1852.	Section twenty-six.
15 & 16 Vict. c. 80.	The Court of Chancery Act, 1852.	Sections nineteen, twenty and twenty-three.
15 & 16 Vict. c. 87.	The Court of Chancery Act, 1852.	Sections three and four.
20 & 21 Vict. c. 77.	The Court of Probate Act, 1857.	Sections eighty-eight and ninety-four.
20 & 21 Vict. c. 85.	The Matrimonial Causes Act, 1857.	Sections thirty-seven, thirty-eight, and forty.
21 & 22 Vict. c. 95.	The Court of Probate Act, 1858.	Sections seventeen and twenty-eight.
21 & 22 Vict. c. 108.	The Matrimonial Causes Act, 1858.	Sections five and fourteen.
23 & 24 Vict. c. 149.	The Court of Chancery Act, 1860.	Section nine.
24 & 25 Vict. c. 10.	The Admiralty Court Act, 1861.	Sections thirteen, twenty-one, twenty-three, and thirty.

4TH SCH. —*cont.*

Session and Chapter.	Title or Short Title.	Extent of Repeal.
30 & 31 Vict. c. 87.	The Court of Chancery (Officers) Act, 1867.	The whole Act.
32 & 33 Vict. c. 89.	The Clerks of Assize, &c., Act, 1869.	Paragraph (2) of section three.
32 & 33 Vict. c. 91.	The Courts of Justice (Salaries and Funds) Act, 1869.	Section eight.
35 & 36 Vict. c. 44.	The Court of Chancery (Funds) Act, 1872.	Section twenty-five.
36 & 37 Vict. c. 66.	The Supreme Court of Judicature Act, 1873.	In section twenty-nine the words from "and subject to any restrictions" to the end of the section, in section thirty-two the words from "and such Order" to the words "and patronage but," in section thirty-three the words from "every document" to the end of the section, section forty-four, in section fifty-two the words "or a Divisional Court thereof," and in section eighty-four the words from the beginning of the section to the words "from time to time determine."
38 & 39 Vict. c. 77.	The Supreme Court of Judicature Act, 1875.	In paragraph 1 of section twenty-three the words from "and in particular" to the words "any of them."
42 & 43 Vict. c. 78.	The Supreme Court of Judicature (Officers) Act, 1879.	In section ten the words "or has practised for five "years as a special pleader "or as a special pleader and "barrister," and sections sixteen and twenty-six.
44 & 45 Vict. c. 68.	The Supreme Court of Judicature Act, 1881.	Section eleven.
53 & 54 Vict. c. 44.	The Supreme Court of Judicature Act, 1890.	Section two.
54 & 55 Vict. c. 14.	The Supreme Court of Judicature (London Causes) Act, 1891.	The whole Act.

Section 29.

FIFTH SCHEDULE.

ENACTMENTS REPEALED.

Session and Chapter.	Short Title.	Extent of Repeal.
7 Will. 4 and 1 Vict. c. 30.	The Superior Courts (Officers) Act, 1837.	Section thirteen.
3 & 4 Vict. c. 65.	The Admiralty Court Act, 1840.	Section eighteen.
5 & 6 Vict. c. 103.	The Court of Chancery Act, 1842.	Section six.
15 & 16 Vict. c. 80.	The Court of Chancery Act, 1852.	Sections seventeen and twenty-one.
20 & 21 Vict. c. 77.	The Court of Probate Act, 1857.	Sections nineteen and eighty-one, and, as from the date on which section eighteen of this Act comes into operation, in section forty-six the words from "if it shall appear," to "stated in the affidavit," section forty-seven, and in section forty-nine the words "and the "place of his abode at his "decease as stated in the "affidavit made in support "of such application."
20 & 21 Vict. c. 85.	The Matrimonial Causes Act, 1857.	Sections thirty-six, fifty-three, fifty-four and sixty-seven.
21 & 22 Vict. c. 93.	The Legitimacy Declaration Act, 1858.	In section four the words from "and the powers" to the words "before the court."
21 & 22 Vict. c. 95.	The Court of Probate Act, 1858.	Section fifteen, in section twenty-one the words from "and the Court" to the end of the section and, as from the date on which section eighteen of this Act comes into operation, in section twenty the words from "and "for and in respect of," to the end of the section.
24 & 25 Vict. c. 10.	The Admiralty Court Act, 1861.	In section twenty-seven, the words "or deputy."
32 & 33 Vict. c. 91.	The Courts of Justice (Salaries and Funds) Act, 1869.	Section fourteen so far as it relates to officers of the Supreme Court.
35 & 36 Vict. c. 44.	The Court of Chancery (Funds) Act, 1872.	In section eight the words from "and shall" to the end of the section, the first paragraph of section nineteen, and section twenty.

5TH SCH. —*cont.*

Session and Chapter.	Short Title.	Extent of Repeal.
36 & 37 Vict. c. 66.	The Supreme Court of Judicature Act, 1873.	Section eight, in paragraph (2) of section thirty-four the words "except appeals from county "courts," in section sixty the words from "and Her Majesty" to the end of that section, in section eighty-three the words "and the qualifications," and in section eighty-four the words from "any "officer of the Supreme "Court" to "order of "removal."
38 & 39 Vict. c. 77.	The Supreme Court of Judicature Act, 1875.	Sections thirteen, seventeen, eighteen, twenty-two and twenty-four.
39 & 40 Vict. c. 59.	The Appellate Jurisdiction Act, 1876.	Section sixteen, in section seventeen the words from "and rules of court for" to the end of the section and section twenty-two.
42 & 43 Vict. c. 78.	The Supreme Court of Judicature (Officers) Act, 1879.	Subsection (4) of section nine, sections ten, eleven, thirteen, eighteen and twenty-two.
44 & 45 Vict. c. 59.	The Statute Law Revision and Civil Procedure Act, 1881.	In section six the words from "matters with respect" to the words "and to all."
44 & 45 Vict. c. 68.	The Supreme Court of Judicature Act, 1881.	Section twenty-two.
46 & 47 Vict. c. 29.	The Supreme Court of Judicature (Funds, etc.) Act, 1883.	Subsection (2) of section four.
46 & 47 Vict. c. 49.	The Statute Law Revision and Civil Procedure Act, 1883.	Section six.
47 & 48 Vict. c. 20.	The Greek Marriages Act, 1884.	In section one the words from "or with such rules" to the end of the section.
47 & 48 Vict. c. 61.	The Supreme Court of Judicature Act, 1884.	Section twenty-three.
52 & 53 Vict. c. 49.	The Arbitration Act, 1889.	Section twenty-one.

5TH SCH. —*cont.*

Session and Chapter.	Short Title.	Extent of Repeal.
53 & 54 Vict. c. 5.	The Lunacy Act, 1890	In subsection (3) of section one hundred and eleven the words "must be a barrister " of not less than ten years' " standing and" and in subsection (5) of that section the words "number and," and in subsection (2) of section one hundred and sixty-three the words "being a barrister of not less than five years' standing."
53 & 54 Vict. c. 44.	The Supreme Court of Judicature Act, 1890.	Section three.
57 & 58 Vict. c. 16.	The Supreme Court of Judicature (Procedure) Act, 1894.	Section five and the Schedule.
58 & 59 Vict. c. 39.	The Summary Jurisdiction (Married Women) Act, 1895.	In section eleven the words from "rules of court" to the end of the section.
8 Edw. 7. c. 47.	The Lunacy Act, 1908	Section four.
8 Edw. 7. c. 69.	The Companies (Consolidation) Act, 1908.	In subsection (1) of section two hundred and thirty-eight, the words "and fees" so far as they relate to the High Court.
4 & 5 Geo. 5. c. 47.	The Deeds of Arrangement Act, 1914.	Section four, in subsection (1) of section five the words from "in like manner" to the words "to be filed," paragraph (*c*) of section six, in subsection (4) of section thirteen the words from "and the" to the end of the section, in section twenty-seven the words from "and for the purposes" to the end of the section, section twenty-eight, in section twenty-nine the words from "but this" to the end of the section, and in section thirty the interpretation of "prescribed."
9 & 10 Geo. 5. c. 26.	The Grant of Administration (Bonds) Act, 1919.	The whole Act.

5TH SCH. —*cont.*

Session and Chapter.	Short Title.	Extent of Repeal.
10 & 11 Geo.5. c. 81.	The Administration of Justice Act, 1920.	Section two, subsection (1) of section three, and section eighteen.
12 & 13 Geo.5. c. 16.	The Law of Property Act, 1922.	In subsection (9) of section one hundred and fifty-six the words from "and for dispensing" to the end of the subsection.

CHAPTER 29.

An Act to facilitate the return to a gold standard and for purposes connected therewith.

[13th May 1925.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Issue of gold coin suspended and right to purchase gold bullion.

1.—(1) Unless and until His Majesty by Proclamation otherwise directs—

(*a*) The Bank of England, notwithstanding anything in any Act, shall not be bound to pay any note of the Bank (in this Act referred to as "a bank note") in legal coin within the meaning of section six of the Bank of England Act, 1833, and bank notes shall not cease to be legal tender by reason that the Bank do not continue to pay bank notes in such legal coin: 3 & 4 Will. 4. c. 98.

(*b*) Subsection (3) of section one of the Currency and Bank Notes Act, 1914 (which provides that the holder of a currency note shall be entitled to obtain payment for the note at its face value in gold coin) shall cease to have effect: 4 & 5 Geo. 5. c. 14.

(*c*) Section eight of the Coinage Act, 1870 (which entitles any person bringing gold bullion to the Mint to have it assayed, coined and delivered to him) shall, except as respects gold bullion brought to the Mint by the Bank of England, cease to have effect. 33 & 34 Vict. c. 10.

(2) So long as the preceding subsection remains in force, the Bank of England shall be bound to sell to any person who makes a demand in that behalf at the head office of the Bank during the office hours of the Bank, and pays the purchase price in any legal tender, gold bullion at the price of three pounds, seventeen shillings and tenpence halfpenny per ounce troy of gold of the standard of fineness prescribed for gold coin by the Coinage Act, 1870, but only in the form of bars containing approximately four hundred ounces troy of fine gold.

Power for Treasury to borrow for exchange operations.

2.—(1) Any money required for the purpose of exchange operations in connection with the return to a gold standard may be raised within two years after the passing of this Act in such manner as the Treasury think fit, and for that purpose they may create and issue, either within or without the United Kingdom and either in British or in any other currency, such securities bearing such rate of interest and subject to such conditions as to repayment, redemption or otherwise as they think fit, and may guarantee in such manner and on such terms and conditions as they think proper the payment of interest and principal of any loan which may be raised for such purpose as aforesaid :

Provided that any securities created or issued under this section shall be redeemed within two years of the date of their issue, and no guarantee shall be given under this section so as to be in force after two years from the date upon which it is given.

(2) The principal and interest of any money raised under this Act, and any sums payable by the Treasury in fulfilling any guarantee given under this Act, together with any expenses incurred by the Treasury in connection with, or with a view to the exercise of, their powers under this section shall be charged on the Consolidated Fund of the United Kingdom or the growing produce thereof.

(3) Where by any Appropriation Act passed after the commencement of this Act power is conferred on the Treasury to borrow money up to a specified amount, any sums which may at the time of the passing of that Act have been borrowed or guaranteed by the Treasury in pursuance of this section and are then outstanding

shall be treated as having been raised in exercise of the power conferred by the said Appropriation Act and the amount which may be borrowed under that Act shall be reduced accordingly.

3. This Act may be cited as the Gold Standard Act, 1925. Short title.

CHAPTER 30.

An Act to amend the law with respect to the landing in Great Britain of pedigree animals brought from His Majesty's dominions.

[28th May 1925.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

1.—(1) Subject to the provisions of this section, the Minister of Agriculture and Fisheries (hereinafter referred to as the Minister) may make orders for allowing, subject to such conditions as may be prescribed by any such order, any cattle, sheep, goats or swine brought from any part of His Majesty's dominions, which are shown to his satisfaction to be there registered as pedigree stock in a herd or flock book recognised by him after consultation with the Royal Agricultural Society of England and the Highland and Agricultural Society of Scotland, to be landed in Great Britain without being subject to the provisions of Part I. of the Third Schedule to the Diseases of Animals Act, 1894 (which relate to slaughter at the port of landing), but subject to the provisions of Part II. of that Schedule (which relate to quarantine) : Power of Minister to allow importation of pedigree animals. 57 & 58 Vict. c. 57.

Provided that no such order shall be made except with respect to animals brought from a part of His Majesty's dominions in which pedigree animals brought from Great Britain are allowed to be landed either unconditionally or subject to conditions (including rates of

import duties) which in the opinion of the Minister are not unduly restrictive.

59 & 60 Vict. c. 15.

(2) The section which by the Diseases of Animals Act, 1896, is substituted for section twenty-four of the Diseases of Animals Act, 1894, shall have effect as if paragraph (*b*) thereof extended to any animals allowed to be landed under this Act in like manner as it extends to animals the landing of which is allowed under the Diseases of Animals Act, 1894.

13 Geo. 5. c. 5.

(3) Section five of the Importation of Animals Act, 1922 (Session 2) (which provides that compensation shall not be payable in respect of the slaughter of imported animals in certain cases), shall apply in respect of any imported animal which having been allowed to be landed under this Act is slaughtered in a quarantine station by reason of the animal being diseased, or suspected of having been exposed to the infection of any disease.

(4) Notwithstanding anything in the Importation of Animals Act, 1922 (Session 2), the provisions contained in the Schedule to that Act (which relate to the regulation of movement of imported cattle) shall not apply to any animals allowed to be landed under this Act except in so far as they may be applied with or without modifications by the order allowing the animals to be landed.

Interpretation and extent.

2. For the purposes of this Act the expression "His Majesty's dominions" includes any territory which is under His Majesty's protection or in respect of which a mandate is being exercised by the Government of any part of His Majesty's dominions.

Short title and construction.

3. This Act may be cited as the Importation of Pedigree Animals Act, 1925, and shall be construed as one with the Diseases of Animals Act, 1894, and the Diseases of Animals Acts, 1894 to 1922, and this Act may be cited together as the Diseases of Animals Acts, 1894 to 1925.

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